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Drinking Water State Revolving Loan Fund (DWSRF)

Project Guide

For ALL Projects

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All projects where the total anticipated project cost is greater than \$250,000 must meet all requirements of this guide and all Federal Cross-cutting Authorities.

Projects where the total anticipated project cost is \$250,000 and less (excluding Emerging Contaminant and Lead Service Line Replacement Projects), will only be required to satisfy the Federal Cross-cutting Authorities that pertain to Civil Rights (Disadvantaged Business Enterprise [DBE] documentation not required) and a State Environmental Review.

This guide is a work in progress – Your comments and suggestions are welcome. This guide does not address procedures related to land acquisitions.

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Essential steps of the DWSRF project procedure

The essential steps of the DWSRF project process are listed below. They may not be inclusive for all projects. The steps do not have to be accomplished in any particular order though some must be accomplished before others can be completed. They are listed in an order that will be typical for most projects. Every project will have unique aspects that will have to be addressed as they are encountered.

- ❑ A request for applications is sent out to all community PWS during the summer of each year for projects that will be completed during the following year. Complete the Application Form for Reporting DWSRF Eligible Projects and return it by the date required. The project application will be scored and ranked using a process specified in the DWSRF Intended Use Plan, available at the DWP website (www.medwp.com). A list of Primary and Backup projects is created by the DWP; Primary Projects have been approved for funding and funding is available for them. Backup projects are funded as Primary Projects decline funding or funding is withheld by the DWP due to lack of project progress. A Notice of Award will be provided for each project that has been approved for funding. The water system will be provided with a limited time to either accept or refuse the loan offer. Approval of a loan and final terms of the loan will be determined by the Maine Municipal Bond Bank (MMBB) following submittal of the MMBB Loan Application.
- ❑ If a water system believes that the Median Household Income from the most recent American Community Survey (see www.medwp.com) for the community they serve is inaccurate or does not represent their project service area, then they should arrange to have MRWA or RCAP start a DWSRF approved income survey to properly determine their eligibility for Disadvantaged Community System assistance. The results of the income survey need to be submitted with the DWSRF Project Application
- ❑ Upon the water system receiving and accepting a loan offer, proceed with the following:
- ❑ Setup a meeting with DWSRF staff (your DWP field inspector) and other interested parties involved in project. (see page 4)
- ❑ If your water system does not have experienced staff able to create engineering designs, contract with a Consulting Engineer to provide design services.
- ❑ Start the Environmental review process. If the project is being funded jointly by other programs using federal funds (DECD or RUS), the environmental review should be coordinated to avoid duplication of effort to the greatest extent possible. (see page 7)
- ❑ If necessary start rate increase approval process. If regulated by Public Utilities Commission, start (if required by the PUC) by first getting approval of Issuance of Securities.
- ❑ Engage a Bond Counsel. The MMBB can provide a list of Bond Counsel with experience with DWSRF Loan documents.
- ❑ Complete and submit loan application to the Maine Municipal Bond Bank (see page 11)
- ❑ Submit available planning documentation to DWP. Prior to the submission of final plans and specifications any available engineering reports, facility plans, pilot studies and preliminary plans associated with the proposed project should be submitted to DWP. All reports and studies shall be provided to the DWP electronically.
- ❑ Submit final plans and specifications for review and approval by DWP at least 30 days prior to the bid opening and at least 45 days prior to the start of construction.
- ❑ DWP staff verifies system capabilities and viability: technical, managerial and financial capacity. This process may require the submission of a business plan, management plan, financial status reports and/or Comprehensive System Facility Plan.
- ❑ Publish environmental determination notice to complete environmental review process.

- ❑ Enter into loan agreement for DWSRF financial assistance with MMBB. Funds become available through a requisition process. Systems must use properly completed summary payment request form.
- ❑ Competitively bid project.
- ❑ Prepare and submit to the DWSRF Project Manager a revised project budget,
- ❑ Prepare and submit to the DWSRF Project Manager an estimated Drawdown Schedule.

Start construction. Advise the DWSRF Project Manager of all pre-bid, bid opening, monthly construction meetings and other milestone meetings that may be held in conjunction with construction of the project. Submit revised cost estimate after construction contract is awarded.

Get started with a meeting

It is recommended that a meeting be held, as soon as it can be arranged, to discuss your project. This meeting could include representatives from other interested parties involved with the project such as other funding agencies, local government, water associations and project consultants. Such a meeting will give you the opportunity to explain and discuss the scope of your proposed project with DWSRF staff, at the same time allowing them to explain how the requirements of the Program will affect your project. A good understanding of the project and the processes involved will help your project move forward, avoiding unexpected circumstances and possible delays. This meeting will also give you a chance to meet and get to know your DWSRF Project Manager and other Program staff.

Financial assistance cannot be approved for the construction costs of your project until the following are complete:

- ❑ **Environmental review process completed**
- ❑ **DWP Capacity Development and SNC review of water system**
- ❑ **DWP approval of contract documents with specifications and final plans**
- ❑ **MMBB loan application approval**

WHO? You and your DWSRF Project Manager. It would also be advantageous for your design engineer to attend. If you haven't chosen a design engineer, your DWSRF Project Manager can suggest help for that process as well. The DWSRF Program Manager may wish to attend the meeting to answer any policy questions you may have about the Program. Depending on the scope of your proposed project, or your funding situation, it may be appropriate for others from the DWP, MRWA, RCAP, DECD or the MMBB to attend the meeting.

WHAT? Anything and everything. Besides discussing the scope of the project and the requirements of the DWSRF Program, an initial meeting is a good time to assess what information you may already have that the Program will need to approve your project. Some documents that DWSRF staff may request include preliminary engineering design reports, facility planning studies and reports, professional services contract for the project, public notices or newsletters informing the public of the proposed project, and/or annual reports. These documents may not be required but may be valuable sources of information the Program will need to evaluate and approve your project. As you read through the rest of this document and discover what other information will be requested from you, you may decide you have other documents to bring to the meeting that will provide valuable background information about your project and water system.

The initial meeting is also a good time for you to let us know under what circumstances the DWSRF staff should communicate with you regarding the project, either with an individual from your system or your design engineer.

WHEN? As soon as possible! By knowing the requirements of the Program early in the process unexpected delays and the need to redo tasks will be minimized.

WHERE? Your place or ours. If the location of the proposed project is known, a site visit may be made in conjunction with the initial meeting.

The progress of your project after the initial meeting is up to you. As stated above there are specific requirements of the DWSRF Program that must be met prior to your receiving financial assistance from the Program. They are described in greater detail in the following sections:

- ❑ Environmental Review
- ❑ Review and approval of construction contract documents
- ❑ Financial application and Project Estimate
- ❑ Inspection and oversight during construction

Before Construction Starts

Before a water system receiving DWSRF money begins construction, the following items must be completed:

1. The water system has had a meeting with DWSRF staff to discuss the timeline of the project and any requirements by the DWSRF program and the Drinking Water Program. This may occur at the Preconstruction meeting or at an earlier project kickoff meeting.
2. An Environmental Review has been performed and approved by DWSRF staff and any other funding agencies involved in the project.
3. A loan application has been submitted and approved by the Maine Municipal Bond Bank. MMBB Loan Approval may also be contingent on the water system receiving an Issuance of Securities approval from the Maine Public Utilities Commission.
4. Plans and specifications have been reviewed and approved by DWSRF staff and other interested parties.
5. A capacity review of the water system has been performed by DWSRF staff.
6. A pre-construction meeting has been conducted with the contractor, funding agencies and other interested parties.

If the above steps are not completed before construction starts, payment and construction could be delayed.

Environmental Review

Every project seeking DWSRF funding is evaluated for its potential environmental impacts. Projects with a loan amount greater than \$250,000 and all Emerging Contaminant (EC) projects and Lead Service Line Replacement (LSLR) projects, regardless of project cost, are subject to a National Environmental Policy Act (NEPA) style

environmental review. Projects with loan amounts \$250,000 or less (excluding EC projects and LSLR projects) are subject to an alternative State Environmental Review Process (SERP). In each case, an Environmental Determination must be issued prior to the start of construction and prior to receiving loan proceeds for the reimbursement of construction costs. The Environmental Determination must be in accordance with the State of Maine "Rules Relating to Drinking Water State Revolving Loan Fund" Section 6. (Appendix G)

NEPA Environmental Review

The National Environmental Policy Act has three levels of environmental review: Categorical Exclusion, Environmental Assessment, and Environmental Impact Statement. Details for each of these review types are discussed below.

Categorical Exclusion (CATEX) – A CATEX is a category of actions that do not individually or cumulatively have a significant effect on the human environment. Most projects that qualify for a CATEX are rehabilitative activities or activities adjacent to or occurring at existing facilities. A project is eligible for a CATEX if it meets the criteria under State of Maine Rules Relating to Drinking Water State Revolving Fund 6(c)(II)(AA)(i-v), and does not involve any extraordinary circumstances listed under 6(c)(II)(BB)(i-iv) (see Appendix G).

Categorical Exclusion Process:

Step 1: Submit a completed Categorical Exclusion Worksheet (Appendix B) and an Environmental Review Submission Form (Appendix D) to your DWSRF Project Manager. The submittal must include project maps and letters sent to and received by all applicable Cross-Cutters. It is the Public Water System's responsibility to request a review from Cross-Cutters. Example letters to Cross-Cutters requesting an intergovernmental review are available in Appendix E for your convenience.

All projects must provide documentation of compliance with National Historic Preservation Act (NHPA) and the Federal Endangered Species Act (ESA). NHPA compliance must be documented through cross-cutter review by the Maine Historic Preservation Commission. ESA compliance must be documented by completing an Endangered Species review of the project area utilizing the US Fish and Wildlife Service environmental review procedure (see Appendix J for instructions). Note: A project is only eligible for a CATEX if it is determined that there will be "no effect" to all listed species and critical habitats. If it is determined that the project is "not likely to adversely affect" or "likely to adversely affect," proceed to the instructions for an Environmental Assessment.

Step 2: If your DWSRF Project Manager reviews the submittal and agrees that the project qualifies for a Categorical Exclusion, they will provide you with a CATEX Notice which must be published in a local newspaper of community-wide circulation. Once published, you must provide your Project Manager with a dated copy of the notice.

Step 3: A 15-day public comment period begins the day the CATEX Notice is published. No construction related work may take place until this 15-day comment period is complete.

Step 4: If there are no significant comments on the CATEX during the 15-day public comment period, then no further Environmental Review is required. If significant comments on the CATEX are received, then either an Environmental Assessment or an Environmental Impact Statement may be required for the project.

Note: The State may revoke a CATEX and require a full environmental review if, subsequent to the granting of an exclusion, the State determines that: the proposed action no longer meets the requirements for a CATEX due

to changes in the proposed project; or the State determines from new evidence that serious local or environmental issues exist; or that Federal, State, or local laws are being or may be violated.

Environmental Assessment (EA) – An EA is a concise public document prepared by the DWP that determines if the proposed action will have significant impact. An EA may result in a Finding of No Significant Impact (FONSI) or a need to prepare an Environmental Impact Statement (EIS). In order to prepare an EA, the PWS must provide DWP with an Environmental Information Document (EID).

Environmental Assessment Process:

Step 1: Submit a completed Environment Information Document Worksheet (Appendix C) and an Environmental Review Submission Form (Appendix D) to your DWSRF Project Manager. The submittal must include project maps and letters sent to and received by all applicable Cross-Cutters. It is the Public Water System's responsibility to request a review from Cross-Cutters. Example letters to Cross-Cutters requesting an intergovernmental review are available in Appendix E for your convenience.

All projects must provide documentation of compliance with National Historic Preservation Act (NHPA), the Maine Endangered Species Act (MESA), and the Federal Endangered Species Act (ESA). NHPA compliance must be documented through cross-cutter review by the Maine Historic Preservation Commission. MESA compliance must be documented through cross-cutter review by the Maine Inland Department of Fisheries and Wildlife. ESA compliance must be documented by completing an endangered species review of the project area utilizing the US Fish and Wildlife Service environmental review procedure (see Appendix J for instructions).

Step 2: Your DWSRF Project Manager will review the submittal and prepare an Environmental Assessment based on the information provided. A copy of the EA will be distributed to the PWS as well as to all applicable Cross-Cutters.

Step 3: If the EA determines that the project qualifies for a FONSI, you will be provided with a FONSI Notice which must be published in a local newspaper of community-wide circulation. You must provide your Project Manager with a dated copy of the published notice. If the EA determines the project qualifies for an EIS, see below.

Step 4: A 30-day public comment period begins the day the FONSI Notice is published. No construction related work may take place until this 30-day comment period is complete.

Step 5: If there are no significant comments on the FONSI during the 30-day public comment period, then the Environmental Review is considered complete. If significant comments on the FONSI are received, then an Environmental Impact Statement may be required for the project.

Note: The State may revoke a FONSI and require an Environmental Impact Statement if, subsequent to granting the Finding, the State determines that: the proposed action no longer meets the requirements for a FONSI due to changes in the proposed project; or the State determines from new evidence that serious local or environmental issues exist; or that Federal, State, or local laws are being or may be violated.

Environmental Impact Statement – An EIS is prepared when DWP determines that the proposed project has the potential to have significant environmental impacts on the quality of the human environment. It provides a detailed analysis of the potential environmental impacts of the proposed action and its alternatives and evaluates

mitigation measures to avoid adverse impacts. If a project is anticipated to have significant environmental effects and no mitigation measures can be utilized to prevent/lessen these impacts, there is potential that the project will not be able to move forward utilizing DWSRF funds. If you believe your project falls under this category, contact your Project Manager to discuss available options.

State Environmental Review

Projects with a total cost of \$250,000* or less are eligible for an alternative State Environmental Review Process (SERP) instead of a full NEPA level environmental review, as described above.

*Note: All Emerging Contaminant Grants and Lead Service Line Removal Loans must follow the NEPA review process regardless of project cost.

State Environmental Review Process

Step 1: Submit a completed State Environmental Review Worksheet (Appendix F) to your DWSRF Project Manager. The submittal must include project maps, documentation from your local code enforcement officer that all state/local permits are in place and regulation are being met, and the addresses of all interested parties (i.e. property abutters) who may be impacted by the project.

Step 2: Your DWSRF Project Manager will review the submittal and if all requirements have been met, they will provide you with a SERP Determination Notice which must be published in a local newspaper of community-wide circulation. You must provide your Project Manager with a dated copy of the published notice.

Step 3: There is no public comment period for SERP projects. Construction work may commence as soon as a copy of the published notice has been provided to your Project Manager.

Concurrence

If the project is to be jointly funded by the DWSRF Program and another agency that requires an environmental review, the DWSRF Project Manager may concur with the environmental review prepared for/by the other agency. To apply for concurrence, submit a copy of the other agency's environmental review documents including all public notices and their final determination. The Project Manager will provide a Notice of Concurrence if deemed eligible.

Exempt Projects

If the DWSRF assistance is solely for engineering costs, then it is exempt from an environmental review.

Contract Documents

Legal agreements for professional services (Engineering Agreements) are to be submitted to your Project Manager. The Program will not reimburse professional fees charged on a percentage of project cost on DWSRF financed projects. Engineering fees will be allowed on a fixed fee for design and hourly fee for inspection. Agreements should include provisions for the design consultant to provide as-built plans, a written O&M manual and facility startup technical assistance, as necessary, at the completion of certain projects.

One set of contract documents, both hard copy and electronically, must be submitted to your DWSRF Project Manager. A line for the signature of a representative from this Program should be provided in these contract documents to officially document our involvement in the project. Construction plans and specifications must be reviewed by your DWSRF Project Manager to ensure that the project complies with the technical requirements of the State of Maine Rules Relating to Drinking Water. Final plans and specifications must be submitted to the DWP for review and approval at least 30 days prior to the bid opening and at least 45 days prior to the start of construction of the project. Construction costs will not be reimbursed until the contract plans and specifications have been reviewed and approved by the DWP.

The contract documents must also meet specific requirements of the DWSRF Program. Your project must comply with several federal statutes and executive orders that are referred to as cross-cutting authorities. A brief explanation of each of the cross-cutting authorities is included in Appendix H. A majority of the authorities will be met by the completion of an environmental review for your project(s). Others will be met through the construction contractor's adherence to the DWSRF Construction Contract Supplemental General Conditions and the standard EJCDC contract conditions mentioned below. Some of the cross-cutting authorities are anti-discrimination statutes that your system and project must meet in order for you to receive DWSRF financial assistance. This, among other things, includes making necessary accommodations for persons with disabilities according to Section 504 of the Rehabilitation Act of 1973 and Executive Orders 11914 and 11250.

Appendix I includes a reference to the DWSRF Supplemental General Conditions (DWP0151) available at www.medwp.com. These Conditions in combination with the use of EJCDC documents (Contract General Conditions and Owner/Contractor Agreement, the current editions of the Funding Agency version), should satisfy all Program contract requirements. The DWSRF Supplemental General Conditions also contains wording that must be included in the Advertisement to Bidders, the Notice to Bidders and the Bid Form. The DWSRF Supplemental General Conditions include the requirement for a Project Sign. The requirement for a Project Sign may be waived if a request to do so is made in writing and the project is not readily visible to the general public. A Project Sign will be required when contractors or subcontractors are allowed to post a sign at the project site. See www.medwp.com for an example of an approved project sign.

The Program requires that all systems require their project contractor(s) make an attempt and document their attempts to make good faith efforts to achieve Disadvantaged Business Enterprise (DBE) goals of 0.64% utilization of Minority Business Enterprise (MBE) firms and 1.64% utilization of Women Business Enterprise (WBE) firms in construction of DWSRF financed projects. The requirements of a "good faith effort" are given in the DWSRF Supplemental General Conditions referenced in Appendix G, available at www.medwp.com.

Construction contracts for projects with a total project cost over \$250,000 shall be awarded through an advertised competitive bidding process unless the DWP approves another method. It is your responsibility to provide evidence that an alternative method will be fair and cost effective. The DWP may approve another method under the following conditions:

- a. An emergency situation exists and time is not available for the preparation of contract documents suitable for advertised competitive bidding, or
- b. Compelling cost savings are to be realized.

Standard forms (AIA, EJCDC, etc.) of construction contracts may be modified to allow the following:

- a. Shortened bidding times, to a minimum of 10 days for contracts estimated to be \$250,000 or less. The usual time for bidding being 30 days.
- b. Qualification of responsive and responsible bidders through the bidding process, or a pre-qualification process, to ensure that the successful bidder is able to satisfactorily complete the contract within time and

performance constraints. No party shall be precluded from taking part in a qualification or pre-qualification process.

- c. The use of additive or deductive alternate bid items is encouraged when the scope of the project may need to be modified dependent upon bids received.

When the estimated total project cost of construction is \$250,000 or less a water system may solicit a minimum of three written quotes instead of a formal competitive bid process. If less than three quotes are received the DWSRF Program Manager may request additional information in order to approve the solicitation process or request that additional quotes are solicited. A clear scope of work and plans approved by the DWP shall be the basis for solicitation and preparation of quotes.

Your public water system must also be able to demonstrate adequate financial, managerial, and technical capacity in order to receive DWSRF financial assistance. A strategy to evaluate your capacity has been developed by the DWP. The DWP and the MMBB through the loan application process will qualitatively evaluate your system's capacity. The Program may require you to make changes to your proposed project, system operation or management, prior to entering into a loan agreement, or may condition the loan agreement as a means of attaining and/or maintaining the required capacities.

You must keep and maintain records in such a manner that the Program and/or EPA can audit activities accomplished with DWSRF funds. Records that the construction contractor is required to keep and maintain are identified in the DWSRF Supplemental General Conditions.

Financial Application

For a copy of the most recent DWSRF Maine Municipal Bond Bank loan application, contact the MMBB at (800) 821-1113. Staff at the MMBB, RCAP, and MRWA are available to help you if you have questions about the application or your particular financial situation. A completed copy of the DWSRF "Estimated Project Cost" form, part of the Application Form for Reporting DWSRF Eligible Projects, must be submitted to the DWP as part of the project application and also when you submit your loan application to the MMBB.

The MMBB will need to verify that you have sufficient revenues to meet the debt obligations of a DWSRF loan.

A project non-interest-bearing bank account must be established which must be maintained separate from your other accounts. Loan proceeds shall be deposited into the project account from which you shall make payments for services received for your DWSRF project.

You will also need to be in compliance with the Federal Single Audit Act as described below:

Compliance with Federal Single Audit Act. The Municipality covenants to comply with the requirements of the Federal Single Audit Act, to the extent it applies to the expenditure of Federal funds, including the Loan or any portion thereof. To demonstrate compliance with this requirement, the Municipality agrees to undertake the following activities during construction of the Project and throughout the entire life of the Loan:

(A) Maintaining an annual accounting system, on a fiscal year basis, and identifying all expenditures of Federal financial assistance. The Bank will provide detail of any federal expenditures made from the Loan during the Municipality's fiscal year. A statement of federal funds allocated to the Loan made by under this agreement is provided in Exhibit J (of the MMBB Loan Application).

(B) Conducting a Single Audit in those fiscal years when expenditures of total Federal financial assistance exceed \$500,000. It is the Municipality's responsibility for determining if the \$500,000 threshold is reached and a Single Audit is required. A copy of each audit must be provided to the MMBB.

If the Public Utilities Commission regulates your system, (if you are required by the PUC) you must obtain approval of Issuance of Securities from them prior to being able to enter into a loan agreement for financial assistance from the DWSRF Program. Applications for rate increases that are required to meet the debt obligations of DWSRF financing must be approved, under certain conditions at least applied for, prior to your entering into a loan agreement.

Your system may receive subsidy assistance in the form of principal forgiveness if it qualifies as a Disadvantaged Community System. The Program is restricted as to how it can give Disadvantaged Community System assistance. The restrictions are explained in the most recent Intended Use Plan (IUP), available at www.medpw.com. Once you have been determined to be a system eligible for DWSRF financial assistance the amount of Principal Forgiveness of your loan will be provided on your Project Loan Offer letter. You may qualify for an extended loan term or reduced interest rate even if you are not eligible for principal forgiveness. The additional information regarding financial terms is included in the Intended Use Plan (IUP) which includes the following general guidelines:

- ➔ The median household income (MHI) of the year-round residential customers served by your system. If the MHI is below the average MHI for non-metropolitan Maine from the American Community Survey 5-Year Estimate, your system may qualify as a Disadvantaged Community System and may be eligible

for additional assistance. The MHI data for your system may come from the most recent American Community Survey or from an independent income survey of the residential water customers in your system's service area, whichever is the most current. MRWA and RCAP are familiar with the requirements of a DWSRF income survey and are available to help you complete the survey.

➔ The current annual residential water user rate charged for the quarterly usage of 2,000 cubic feet.

The Program will assign your project(s) a project number(s) at the time your project application is received by the DWP. Your Project Number will be stated on your Project Loan Offer letter. You or your engineer should call the Program to get this number. It will be required on all correspondence to the Program regarding your project including all payment requisitions.

Construction Inspection and Oversight

You will need to inform your DWSRF Project Manager of all construction-related meetings. The Project Manager will attend a Pre-Bid meeting/conference, the Pre-construction meeting, all monthly construction progress meetings and the facility final inspection. It is your responsibility to see that records of the construction related meetings are kept. Copies of meeting records shall be given to your Project Manager if requested. Your Project Manager will be our conduit for exchange of information with the DWSRF Program Manager.

You will need to supply the DWSRF Project Manager with a tabulation of all bids received along with an explanation for why any bids were rejected or bidders disqualified. An executed original of the contract, complete with executed bonds, insurance certificates and other documents specified in the bid package must be given to the Project Manager at the time of, or soon after, award of the contract. The awarded contract must include a line for and with the signature of a representative from the DWSRF Program. A revised project budget based on the bid results should be completed at this time on the Program's "Estimated Project Cost" form and submitted to the DWSRF Program Manager. A Project Drawdown Schedule will also be required at this time.

Disadvantaged Business Enterprise (DBE) documentation must be completed as required in the DWSRF Supplemental General Conditions (DWP0151 available at www.medwp.com) referred to in Appendix I. Failure to demonstrate good faith effort to meet DBE goals is reason to declare the bidder "non-responsive" and ineligible for award of the contract. Solicitation letters to DBE subcontractors shall be retained by the water system and provided to the Project Manager upon request. Every payment requisition with contract spending must include a copy of the DWP Progress Report of DBE Subcontractor Utilization properly completed before the Program will process the payment, even if there were no DBE firms requesting funds in the requisition.

After the construction contract is awarded, you must ensure that a qualified inspector under the supervision of a registered professional engineer provides adequate inspection of the project. The inspector shall assure that the work is being performed in a satisfactory manner in accordance with the approved plans and specifications, approved change orders, and in accordance with sound engineering principles and building practices. Full time project inspection is not required by the Program. An inspector must be present to witness critical project processes, such as required material or facility testing, and before facilities are covered up or buried. Your engineer should determine when project inspection is required and their inspector should coordinate this inspection with the contractor.

The Project Manager and others from the Program will be authorized to inspect the project at any time during construction. At a minimum, the Project Manager will be performing a construction site inspection before the

processing of any payment requisition (pay requisition meeting) that includes requests of reimbursement of construction expenses. If the Project Manager, or other Program staff members, observes any variances or discrepancies between the ongoing construction in comparison to the approved plans and specifications, or the amount of material or work provided in comparison to the amount of the reimbursement request, the Project Manager will notify you and the engineer. Upon notification, you or the engineer will see that any necessary corrective action is taken.

Requests for reimbursement (payment requisitions) will be made using the DWSRF approved payment requisition form. Copies of this form can be obtained from your Project Manager or on the DWP website (www.medwp.com). Your Project Manager will accept only requests for reimbursement that have been properly certified and signed by the Authorized Representative from the water system. In order to be processed, the payment requisition must be completed properly and include all required supporting documentation; reimbursements will be delayed until the properly completed requisition form and supporting documentation is provided to the Project Manager. The supporting documentation should include, but is not limited to, all invoices and requests for payment from the contractor with supporting invoices for all charges. These must be included for the Project Manager's records and verification of expenses. A completed DWP Progress Report of DBE Subcontractor Form will be required with each requisition submission showing contract spending, even if the requisition doesn't include a payment to DBE participants. The supporting documentation required with the final pay requisition shall also include lien waivers from all subcontractors and material suppliers that had approved expenses included in the General Contractors previous request(s) for payment.

The Project Manager must approve all change orders prior to the cost of the orders being authorized for reimbursement. Any increase or decrease in the contract price, completion period, or scope of the contract shall be reason to issue a change order. Change orders that cause the project amount to exceed the amount of the loan agreement cannot be approved by the Project Manager. The loan will have to be reevaluated by the DWSRF Program Manager. You may approve the change order, but the DWSRF Program cannot reimburse you for the additional cost unless the Program Manager approves the change order. To facilitate the approval process you must have a DWP approval signature line added to the project change order form included in the contract documents. Make note as to the exceptions that require the Program Manager's approval.

At the completion of the project a certificate of substantial completion must be executed. Execution of that document establishes the start date for the warrantee period for the project contract. At a minimum the certificate must include the date of substantial completion, the percent that the project is complete, the punch list of items yet to be completed, and authorized signatures of the engineer and owner's Authorized Representative (contractor may sign also). The Project Manager shall be given a completed, signed copy of the certificate. Your Project Manager shall verify that the contractor/engineer has supplied you with an operation and maintenance manual for the completed project prior to submitting your final request for reimbursement for payment.

Appendix A: Definitions

Definitions

Authorized Representative - the "Authorized representative" is the signatory agent of the Eligible Public Water System authorized and directed by the system's governing body to make application for assistance and to sign documents required to undertake and complete the project on behalf of the system.

Building - the construction, erection, acquisition, alteration, remodeling, improvement to or extension of drinking water system facilities.

Certificate of Substantial Completion - documentation, a form for which may be made part of the construction contract documents, that indicates that the Project Engineer and Owner are satisfied that the construction contract is complete. An executed Certificate of Substantial Completion indicates that the warranty period for the work has started and that the repayment period for the DWSRF loan has started.

Change order - the documents issued by the water system, upon recommendation of the Project Engineer and with the approval of the authorized representative of the Program to the extent it requires a change in cost for the project, authorizing a change, alteration, or variance in previously approved engineering plans additions or deletions of work to be performed pursuant to the contract or a change in costs for work performed pursuant to the contract.

Community water system - a public water system serving at least 15 service connections for year-round residents, or regularly serving at least 25 year-round residents (Year round is defined as permanent residence greater than six months).

Contract documents - the complete set of documents, including construction plans and specifications, bid, and contract, which when taken as a whole constitute the information necessary for completion of the DWSRF project. See plans and specifications.

Cross-cutting Authorities - Federal laws and authorities that apply by their own terms to projects or activities receiving federal assistance. See Appendix H.

DBE – a Disadvantaged Business Enterprise is either a Minority Owned Business Enterprise (MBE) or a Women Owned Business Enterprise (WBE).

Disadvantaged Community - the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located.

Disbursement - the transfer of cash from the DWSRF to the assistance recipient.

DECD - Maine Department of Economic and Community Development, administrators of the Community Development Block Grant Program.

DWSRF - Drinking Water State Revolving Loan Fund.

DWSRF Project Manager (Project Manager) – The DWP Field Inspector who will act as the DWSRF Project Manager (Project Manager) for the project.

DWSRF Program Manager – The DWP manager responsible for overseeing DWSRF project funding and management.

DWP - Drinking Water Program

Eligible Public Water System - community water system, both privately or publicly owned, and non-profit non-community water systems. Federally owned public water systems are not eligible.

EPA - Environmental Protection Agency

Environmental Review - the environmental review process conducted by the State that complies with 40 CFR Part 6, Subpart E or an alternative "NEPA-like" State environmental review.

Equivalency Projects - projects that must total to the amount equal to the federal capitalization grants and must comply with environmental review requirements and federal cross-cutting authorities. Also includes all Emerging Contaminant projects and all Lead Service Line Replacement Projects funded through the Bipartisan Infrastructure Law

Financial Assistance - includes but is not limited to, loans by the MMBB from the DWSRF, loans made by the MMBB from revenue bond proceeds, or any other purpose authorized pursuant to Title 30A MRSA Sections 4953-B and 6006-B.

Force Account - refers to the use of a water system's own work force to build any portion of a DWSRF project.

IUP (Intended Use Plan) - the annual plan identifying the intended uses of the funds available to the State from each EPA capitalization grant award, its State match and associated bond proceeds.

MBE/WBE - Minority Owned Business Enterprise and Women Owned Business Enterprise.

MMBB - the Maine Municipal Bond Bank.

MRWA - Maine Rural Water Association

Non-equivalency projects - projects that because of their total dollar amount will be considered to be funded with nonfederal monies. This exempts them from having to meet federal cross-cutting authorities, except that may must meet anti-discrimination laws, as a requirement of receiving financial assistance from the DWSRF program.

Plans and specifications - the engineering description of the project including engineering drawings, maps, technical specifications, design reports and construction contract documents in sufficient detail to allow contractors to bid on and construct the work.

Primary Project - a project identified to receive financial assistance from the DWSRF.

Program - the Drinking Water State Revolving Loan Fund Program / Drinking Water Program of the Division of Environmental Health in the Maine Department of Health & Human Services.

Program Manager - the Drinking Water Program staff member responsible for overseeing the DWSRF Program.

Project - the work to be accomplished for which an eligible public water system is seeking a loan or other financial assistance from the DWSRF.

Project Manager- the Program staff member who is the primary contact with the public water system for purposes of administering the DWSRF requirements relating to a Primary Project.

Project Submittal Form – the Application Form for Reporting DWSRF Eligible Projects submitted by an eligible public water system for initial consideration and assignment of priority points for a DWSRF project.

RCAP - Rural Community Assistance Program.

RUS - Rural Utilities Service.

SNC – Significant Non Conformer

Appendix B: Categorical Exclusion Worksheet

Categorical Exclusion Worksheet

Public Water System:

PWSID:

Project Number (if known):

Project Name:

Project Location:

A project qualifies for a Categorical Exclusion (CATEX) if its actions do not individually or cumulatively have a significant effect on the quality of the human environment. The following information must be prepared and submitted to your DWSRF Project Manager in order to request an exclusion from a full environmental review. A determination will not be made until all information/documentation is received and all requirements have been fulfilled. It is ultimately the Public Water System's responsibility to ensure that all of the information necessary for the DWSRF Project Manager to make an environmental determination is accurate and complete.

Justification for CATEX

Identify the appropriate CATEX paragraph(s) from the Rules Relating to Drinking Water State Revolving Fund, Chapter 230, 6(c)(II)(AA)(i-v) which applies to the project. Describe if the project differs in any way from the specific language of the CATEX criteria.

Project Description

Provide a brief, but complete, description of the proposed project, including all relevant design parameters, estimated schedule, and an explanation of why the project is needed.

Project Area Description

Provide a brief, but complete, description of the proposed project area. Include any unique or natural features within or nearby the project site (floodplains, wetlands, farmland, etc.) Attach a completed Environmental Review Submission Form.

Federal Flood Risk Management Standard

Describe the approach used to determine flood elevation and flood hazard area. If the proposed project will be located in or will affect a floodplain, a floodplain assessment must be prepared and project is ineligible for a CATEX – see Appendix C.

Endangered Species Act Compliance

Follow the instructions provided by US Fish and Wildlife Service for completing an ESA review for your project area. Instructions for completing a review are located in Appendix J. All of the following documentation must be included with your submittal:

- Official Species List from IPaC
- Bald Eagle Nest Location Map (showing project site and nearest documented eagle nest.)
- Completed Species Summary Table

National Historic Preservation Act Compliance

Submit documentation of Cross-Cutter review by the Maine Historic Preservation Commission.

- Documentation Provided

Other Cross-Cutter Coordination

Send letters to all other applicable Cross-Cutters requesting an intergovernmental review for the project.

Include copies of all letters sent and responses received. A list of Cross-Cutters and their contact information is located in Appendix H of the Project Guide. Sample letters are located in Appendix E. Check all Cross-Cutters below for which letters are enclosed.

- | | |
|--|--|
| <input type="checkbox"/> Department of Inland Fisheries and Wildlife | <input type="checkbox"/> US Army Corp of Engineers |
| <input type="checkbox"/> Maine Floodplain Management Program | <input type="checkbox"/> DEP Bureau of Air Quality |
| <input type="checkbox"/> Maine Geological Survey | <input type="checkbox"/> DEP Bureau of Land & Water Quality |
| <input type="checkbox"/> Maine Coastal Program | <input type="checkbox"/> DEP Division of Solid Waste Management |
| <input type="checkbox"/> Maine Natural Areas Program | <input type="checkbox"/> DEP Division of Land Resource Regulation |
| <input type="checkbox"/> Maine Drinking Water Program | <input type="checkbox"/> DEP Division of Water Resource Regulation |
| <input type="checkbox"/> Division of Parks and Public Resources | <input type="checkbox"/> Natural Resources Conservation Service |

Site Maps

Attach site map(s) showing the location of the project and the location of environmentally sensitive areas such as wetlands, streams, ponds, historic or archeological sites, floodplain boundaries, designated wildlife habitat or endangered species locales, and other resources, as specified in local, state, and federal regulations.

Certification

I certify that, to the best of my knowledge, the information submitted in this Request for Categorical Exclusion, including the accompanying attachments, is true and accurate. I further certify that I agree to refrain from any construction activity, including, but not limited to, site preparation, demolition, or land disturbance, for the above proposed project(s) until (1) the Drinking Water Program issues a final written environmental decision for the proposed project(s); and (2) the Drinking Water Program notifies me in writing of compliance with all other applicable DWSRF approval actions. I further certify that I am a person authorized to render this certification and that I may be subject to penalties under federal and Maine law, if I provide false or untrue information.

Prepared by: _____ Title: _____

Signature: _____ Date: _____

To be completed by DWSRF Project Manager

As the Responsible Official, I have determined that the proposed project **is eligible for a Categorical Exclusion** per the substantive environmental review requirements under EPA regulations at 40 C.F.R. § 6.204.

Signature of Responsible Official Title Date

The State shall revoke a CATEX and shall require a full environmental review if, subsequent to granting of an exclusion, the State determines that: the proposed action no longer meets the requirements for a CATEX due to changes in the proposed project; or the State determines from new evidence that serious local or environmental issues exist; or that Federal, State, or local laws are being or may be violated.

The proposed project is not eligible for a Categorical Exclusion based on the substantive environmental review

requirements under EPA regulations at 40 C.F.R. § 6.204, therefore:

As the Responsible Official, I have determined that this project is eligible for an **Environmental Assessment (EA)** as per the substantive environmental review requirements under EPA regulations at 40 C.F.R. § 6.205

As the Responsible Official, I have determined that this project is eligible for an **Environmental Impact Statement (EIS)** as per the substantive environmental review requirements under EPA regulations at 40 C.F.R. § 6.207

Signature of Responsible Official

Title

Date

Appendix C: Environmental Information Document Worksheet

Environmental Information Document Worksheet

Public Water System:

PWSID:

Project Number (if known):

Project Name:

Project Location:

Public Water Systems should use this form for projects that are not eligible for a categorical exclusion (CATEX). The following information must be prepared and submitted to your DWSRF Project Manager in order to request an environmental determination. A determination will not be made until all information/documentation is received and all requirements have been fulfilled. It is ultimately the Public Water System's responsibility to ensure that all of the information necessary for the DWSRF Project Manager to make an environmental determination is accurate and complete.

Purpose and Need for the Project

Provide a description of the purpose of the proposed project, including any goals or objectives. Answer the question, why is this project needed?

Proposed Project and Funding Status

Provide a description of the project including location, schedule, and any relevant design parameters. Project maps must be provided that show existing and proposed facilities associated with the project and overall project planning area. If more than one source of funding is anticipated, include the total project costs broken down by funding source, amount, and the status of anticipated funds.

Alternatives Analysis

Describe and analyze all reasonable alternatives and "no-action". State why the proposed project is preferred over the alternatives.

Existing Environment

Describe environmental or cultural resources in the planning area that may be affected by the project or its alternatives. Attach a completed Environmental Review Submission Form.

Environmental Impacts and Mitigation

Describe and document all environmental impacts of the proposed project and each alternative on existing environmental and cultural resources identified in the Environmental Review Submission Form. Include direct, indirect, and cumulative impacts. Address mitigation measures designed to reduce or eliminate adverse environmental impacts.

Federal Flood Risk Management Standard

Describe the approach used to determine flood elevation and flood hazard area. If the proposed project will be located in or will affect a floodplain, a floodplain assessment must be prepared. The assessment must include alternatives to the proposed site, if practical, and mitigating measures or design modifications that will reduce the threats from locating the project in the floodplain. Concurrent with ER determination public notice, public notice is required to

inform the community why the proposed project is to be located in a floodplain. See Appendix K of the DWSRF Project Guide for more information.

Interagency Coordination and Consultation Activities

Endangered Species Act Compliance

Follow the instructions provided by US Fish and Wildlife Service for completing an ESA review for your project area. Instructions for completing a review are located in Appendix J. The following documentation must be included with your submittal:

- Official Species List from IPaC
- Verification Letter for Final 4(d) Rule for Northern Long-Eared Bat (If project involves cutting trees three-inches in diameter or greater)
- Bald Eagle Nest Location Map (showing project site and nearest documented eagle nest.)
- Completed Species Summary Table
- Informal consultation letter to USFWS (if applicable)

Maine Endangered Species Act Compliance

Submit documentation of Cross-Cutter review by the Maine Department of Inland Fisheries and Wildlife.

- Documentation Provided

National Historic Preservation Act Compliance

Submit documentation of Cross-Cutter review by the Maine Historic Preservation Commission.

- Documentation Provided

Other Cross-Cutter Coordination

Send letters to all other applicable Cross-Cutters requesting an intergovernmental review for the project. Include copies of all letters sent and responses received. A list of Cross-Cutters and their contact information is located in Appendix H of the Project Guide. Sample letters are located in Appendix E. Check all Cross-Cutters below for which letters are enclosed.

- | | |
|---|--|
| <input type="checkbox"/> US Army Corp of Engineers | <input type="checkbox"/> Natural Resources Conservation Service |
| <input type="checkbox"/> Maine Floodplain Management Program | <input type="checkbox"/> DEP Bureau of Air Quality |
| <input type="checkbox"/> Maine Geological Survey | <input type="checkbox"/> DEP Bureau of Land & Water Quality |
| <input type="checkbox"/> Maine Coastal Program | <input type="checkbox"/> DEP Division of Solid Waste Management |
| <input type="checkbox"/> Maine Natural Areas Program | <input type="checkbox"/> DEP Division of Land Resource Regulation |
| <input type="checkbox"/> Maine Drinking Water Program | <input type="checkbox"/> DEP Division of Water Resource Regulation |
| <input type="checkbox"/> Division of Parks and Public Resources | |

Permits

List any permits required for the proposed project and provide details on the status of the permits.

Public Participation

Provide documentation of any public involvement process (meeting transcripts/minutes, newspaper notices, door-to-door notices, website postings etc.). Through public participation federal agencies disclose information about a proposed project and expected environmental effects. Many of the special purpose laws (National Historic Preservation Act, Clean Water

Act, etc.) require public notice and the opportunity for public involvement.

Certification

I certify that, to the best of my knowledge, the information submitted in this Request for Categorical Exclusion, including the accompanying attachments, is true and accurate. I further certify that I agree to refrain from any construction activity, including, but not limited to, site preparation, demolition, or land disturbance, for the above proposed project(s) until (1) the Drinking Water Program issues a final written environmental decision for the proposed project(s); and (2) the Drinking Water Program notifies me in writing of compliance with all other applicable DWSRF approval actions. I further certify that I am a person authorized to render this certification and that I may be subject to penalties under federal and Maine law, if I provide false or untrue information.

Prepared by: _____ Title: _____

Signature: _____ Date: _____

To be completed by DWSRF Project Manager

- As the Responsible Official, I have determined that this **project is eligible for a Finding of No Significant Impact (FONSI)** as per the substantive environmental review requirements under EPA regulations at 40 C.F.R. § 6.205

The State shall revoke a FONSI and shall require an Environmental Impact Statement if, subsequent to granting the Finding, the State determines that: the proposed action no longer meets the requirements for a FONSI due to changes in the proposed project; or the State determines from new evidence that serious local or environmental issues exist; or that Federal, State, or local laws are being or may be violated.

- As the Responsible Official, I have determined that this project is eligible for an **Environmental Impact Statement (EIS)** as per the substantive environmental review requirements under EPA regulations at 40 C.F.R. § 6.207

_____ _____ _____
Signature of Responsible Official Title Date

Appendix D: Environmental Review Submission Form

Environmental Review Submission Form

Public Water System:

PWSID:

Project Number (if known):

Project Name:

Project Location:

Instructions: Use the following checklist to identify potential environmental and cultural resources that may be impacted by the proposed project. Every question must be answered either ‘Yes’ or ‘No’. Describe the specific circumstances as well as mitigation measures for each question answered ‘Yes’ in your CATEX Worksheet or Environmental Information Document. Any question answered ‘No’ must be supported by the applicable Cross-Cutter unless it can be eliminated based off of geographic location. For example, if a main replacement were taking place in interior Maine, you would not need to include documentation by the Maine Coastal Program indicating that coastal zones will not be impacted.

Area of Environmental Concern	YES	NO
Historical Resources [Cross-Cutter: Maine Historic Preservation Commission, Regional Native American Tribes]		
Are there historic/cultural resources listed (or eligible for listing) on the National Register of Historic Places located in the Area of Potential Effect? See Executive Order 11593 – Protection and enhancement of the cultural environment.	<input type="checkbox"/>	<input type="checkbox"/>
Are there any natural landmarks located in/nearby the project area?	<input type="checkbox"/>	<input type="checkbox"/>
Will the project have any impact of the Appalachian Trail?	<input type="checkbox"/>	<input type="checkbox"/>
Coastal Resources [Cross-Cutters: Maine Geological Society, Maine Coastal Program, Division of Parks & Public Lands, NOAA Fisheries]		
Will the project occur in or impact a coastal zone as defined by the State’s Coastal Zone Management Plan (CZMP)?	<input type="checkbox"/>	<input type="checkbox"/>
Will the project occur in or impact the Coastal Barrier Resource System as defined by the US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>
Will the project occur in or impact essential marine fish habitat within 200 nautical miles from shore? See Magnuson-Stevens Fishery Conservation & Management Act.	<input type="checkbox"/>	<input type="checkbox"/>
Ecological Resources [Cross-Cutters: US Fish and Wildlife Service, Dept. of Inland Fisheries and Wildlife, NOAA Fisheries Maine Natural Areas Program]		
Are there any federal or state listed endangered, threatened, or candidate species or designated critical habitat in or near the project area? This includes species protected by individual statute, such as the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act.	<input type="checkbox"/>	<input type="checkbox"/>
Does the project affect or have the potential to affect, directly or indirectly, any federal or state-listed, threatened, endangered or candidate species, or designated habitat?	<input type="checkbox"/>	<input type="checkbox"/>

Farmland [Cross-Cutter: Division of Agricultural Resource Development]	YES	NO
Is there prime, unique, state or locally important farmland in/near the project area?	<input type="checkbox"/>	<input type="checkbox"/>
Does the project include the acquisition and conversion of farmland?	<input type="checkbox"/>	<input type="checkbox"/>
Floodplains [Cross-Cutter: Maine Floodplain Management Program]		
Will the project be located in, encroach upon or otherwise impact a floodplain?	<input type="checkbox"/>	<input type="checkbox"/>
Wetlands and Other Waters of the U.S. [Cross-Cutter: US Army Corp of Engineers, DEP Division of Land Resource Regulation]		
Are there any wetlands or other waters of the U.S. in or near the project area?	<input type="checkbox"/>	<input type="checkbox"/>
Will the project result in impacts, directly or indirectly (including tree clearing)?	<input type="checkbox"/>	<input type="checkbox"/>
Is a USACE Clean Water Act Section 404 permit required?	<input type="checkbox"/>	<input type="checkbox"/>
Wild and Scenic Rivers [Cross-Cutter: Division of Parks and Public Lands]		
Is there a river on the Nationwide Rivers Inventory, a designated river in the National System, or river under State jurisdiction (including study or eligible segments) near the project? (Note: Allagash Wilderness Waterway is the only designated scenic river in Maine.)	<input type="checkbox"/>	<input type="checkbox"/>
Will the project directly or indirectly affect the river or an area within ¼ mile of its ordinary high-water mark?	<input type="checkbox"/>	<input type="checkbox"/>
Air Quality [Cross Cutter: DEP Bureau of Air Quality]		
Could the project impact air quality or violate local, State, Tribal or Federal air quality standards under the Clean Air Act Amendment of 1990?	<input type="checkbox"/>	<input type="checkbox"/>
Water Quality [Cross-Cutters: Bureau of Land and Water Quality, Maine Drinking Water Program, DEP Bureau of Water Quality]		
Are there water resources within or near the project area? These include groundwater, surface water (lakes, rivers, etc.), sole source aquifers and public water supply.	<input type="checkbox"/>	<input type="checkbox"/>
Will the project impact any of the identified water resources?	<input type="checkbox"/>	<input type="checkbox"/>
Does the project have the potential to violate federal, state, tribal or local water quality standards established under the Clean Water and Safe Drinking Water Acts?	<input type="checkbox"/>	<input type="checkbox"/>
Are any permits required?	<input type="checkbox"/>	<input type="checkbox"/>
Established Communities		
Will the project disrupt a community, planned development or be inconsistent with plans or goals of the community?	<input type="checkbox"/>	<input type="checkbox"/>
Are residents or businesses being relocated as part of the project?	<input type="checkbox"/>	<input type="checkbox"/>
Will the project cause any disproportionately high and adverse impacts to minority and/or low-income populations?	<input type="checkbox"/>	<input type="checkbox"/>

Controversial Nature	YES	NO
<p>Is the project highly controversial? The term “highly controversial” means a substantial dispute exists as to the size, nature, or effect of a proposed federal action. The effects of an action are considered highly controversial when reasonable disagreement exists over the project’s risks of causing environmental harm. Mere opposition to a project is not sufficient to be considered highly controversial on environmental grounds. Opposition on environmental grounds by a federal, state, or local government agency or by a tribe or a substantial number of the persons affected by the action should be considered in determining whether or not reasonable disagreement exists regarding the effects of a proposed action.</p>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix E: Environmental Review Example Letters to Cross-Cutters

Your Letterhead

Date

Reviewer's Name

Concurring Agency

Main Street

Some Town, ME 04444

Re: Environmental Review – *Your Project Name*

Dear *Reviewer*,

The system name is proposing to *brief description of project*. The project is located as shown on the enclosed site map.

The system has applied for financial assistance from the Maine Drinking Water State Revolving Loan Fund (DWSRF), which is funded in part by a grant to the State from the U.S. Environmental Protection Agency. Consequently, it is necessary for the project to meet federal cross-cutting authority requirements.

At your earliest convenience, please review the proposed project and give us comments with regard to the *appropriate cross-cutting authority*. Also, please let me know if you have other concerns about the potential environmental impact of the proposed activity. If you need further information, please contact me at *your phone number* or by e-mail at *your e-mail*.

If a response to this letter is not received within 30 days, we will assume that you have no concerns with regard to the proposed project.

Sincerely,

Enclosure – site map

cc: *as appropriate*
Drinking Water Program

Your Letterhead

Date

Reviewer's Name

Concurring Agency

Main Street

Some Town, ME 04444

Re: Environmental Review – *Your Project Name*

Dear *Reviewer*,

The system name is proposing to *brief description of project*. The project is located as shown on the enclosed site map.

The system has applied for financial assistance from the Maine Drinking Water State Revolving Loan Fund (DWSRF), which is funded in part by a grant to the State from the U.S.

Environmental Protection Agency. Consequently, it is necessary for the project to meet federal cross-cutting authority requirements.

Please have the proposed project undergo the Intergovernmental Review in compliance with Federal Executive Order #12372 and 5 MRSA Subsection S1. If you need further information, please contact me at your phone number or by e-mail at your e-mail.

Sincerely,

Enclosure – site map

cc: *as appropriate*
Drinking Water Program

Appendix F: State Environmental Review Process Worksheet

State Environmental Review Process Worksheet

Public Water System:

PWSID:

Project Number (if known):

Project Name:

Project Location:

Projects with a total cost of \$250,000 or less (excluding Emerging Contaminant projects, and Lead Services Line Replacement projects) are eligible for an alternative State Environmental Review Process (SERP). The following information must be prepared and submitted to your DWSRF Project Manager in order to request an environmental determination. A determination will not be made until all information/documentation is received and all requirements have been fulfilled. It is ultimately the Public Water System's responsibility to ensure that all of the information necessary for the DWSRF Project Manager to make an environmental determination is accurate and complete.

Purpose and Need for the Project

Provide a description of the purpose of the proposed project, including any goals or objectives. Answer the question, why is this project needed?

Proposed Project

Provide a description of the project including location, schedule, and any relevant design parameters. Project maps must be provided that show existing and proposed facilities associated with the project and overall project planning area.

Alternatives Analysis

Describe and analyze all reasonable alternatives. State why the proposed project is preferred over the alternatives.

Impacts on Existing Environment

Describe environmental or cultural resources in the planning area that may be positively or negatively affected by the project or its alternatives.

Future Environment

Provide a description of the future of the area's environment if the proposed project were not to take place.

Local/State Permits and Reviews

List any permits required for the proposed project and provide details on the status of the permits. Provide documentation from local code enforcement officer that all local/state permit requirements are met (copy of email correspondence acceptable).

Public Participation

Identify any parties that have an interest in your project and include their mailing address. Interested parties are defined as anyone who may be affected by or interested in the project construction activity. Interested parties are usually property abutters and those impacted by the project construction activity or its impact on the environment.

Certification

I certify that, to the best of my knowledge, the information submitted in this Request for Categorical Exclusion, including the accompanying attachments, is true and accurate. I further certify that I agree to refrain from any construction activity, including, but not limited to, site preparation, demolition, or land disturbance, for the above proposed project(s) until (1) the Drinking Water Program issues a final written environmental decision for the proposed project(s); and (2) the Drinking Water Program notifies me in writing of compliance with all other applicable DWSRF approval actions. I further certify that I am a person authorized to render this certification and that I may be subject to penalties under federal and Maine law, if I provide false or untrue information.

Prepared by: _____ Title: _____

Signature: _____ Date: _____

To be completed by DWSRF Project Manager

- As the Responsible Official, I have determined that this **project is eligible for a Determination of Environmental Compliance for State Environmental Review Projects** as per the environmental review requirements under State of Maine Rules Relating to Drinking Water State Revolving Loan Fund: 10-144 Chapter 230, Section 4.

Signature of Responsible Official

Title

Date

Appendix G: Chapter 230: Rules Related to Drinking Water
State Revolving Fund

10-144 DEPARTMENT OF HUMAN SERVICES

DIVISION OF HEALTH ENGINEERING

Chapter 230: RULES RELATING TO DRINKING WATER STATE REVOLVING
FUND

STATE OF MAINE

RULES RELATING TO DRINKING WATER STATE REVOLVING LOAN
FUND

DEPARTMENT OF HUMAN SERVICES
DIVISION OF HEALTH ENGINEERING
10 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0010

and

MAINE MUNICIPAL BOND BANK

Effective January 28, 1998

Department of Human Services
Bureau of Health
Division of Health Engineering

STATE OF MAINE
RULES RELATING TO DRINKING WATER STATE REVOLVING LOAN FUND

SUMMARY STATEMENT

These rules set forth and explain 1) the uses to which the Drinking Water State Revolving Fund (the Fund) may be put, 2) the prioritization of Projects requesting financial assistance from the Fund, 3) the process for certification of the eligibility of Projects prior to their receiving financial assistance, and 4) the details of the environmental review process for applicants seeking financial assistance from the Fund.

BASIS STATEMENT

These rules are established to allow the Fund to award financial assistance to public water systems for the construction of Projects that will eliminate immediate and potential threats to public health. The Fund is financed in part by a grant from the U.S. Environmental Protection Agency (EPA). EPA guidelines require that recipient states have certain rules in place for the administration of the Fund and for conducting environmental reviews of Projects. Projects receiving monies from the Fund must undergo an environmental review to ensure that they comply with applicable local, state and federal laws relating to the protection and enhancement of the human environment affected by the Project.

AUTHORITY

30-A M.R.S.A. Section 5959

EFFECTIVE DATE

These rules are effective January 28, 1998

Non-Discrimination Notice

In accordance with Title VI of the Civil Rights Act of 1964, as amended by the Civil Rights Restoration Act of 1991 (42 U.S.C. 1981, 2000e et seq.) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), Title 11 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and Title IX of the Education Amendments of 1972, the Maine Department of Human Services does not discriminate on the basis of sex, color, national origin, disability or age in admission or access to or treatment or employment in its programs and activities,

1. Uses of the Safe Drinking Water State Revolving Loan Fund established by Public Law 1997, Chapter 555.
 - a. General. For purposes of administering the Safe Drinking Water State Revolving Loan Fund established by 30A MRSA Section 6006-B (the Fund) references to “water utility” in 30A MRSA Sections 5953-B and 6006-B shall be taken to mean a public water system as defined in 22 MRSA Section 2601, subsection 8. In addition all references in 30A MRSA Section 6006-B to the federal Safe Drinking Water Act shall be read as references to the federal Safe Drinking Water Act of 1996, 42 USC Sections 300f to 300j-9, as amended.
 - b. Additional uses. The Fund may be used for one or more of the following purposes, in addition to the purposes listed in 30A MRSA Section 6006-B, subsection 2:
 - I. To make loans to a municipality or an intermunicipal or interstate agency or other eligible participant as specified in the federal Safe Drinking Water Act of 1996, 42 USC Sections 300f to 300j-9, as amended (the Act), to buy or refinance bonds or notes issued after July 1, 1993 for the purpose of financing the construction of any capital improvement or management project described under 30A MRSA Section 5953-B, subsection 1 and certified under 30A MRSA Section 5953-B, subsection 3;
 - II. To pay the costs of the Maine Municipal Bond Bank (the Bank) and the Department of Human Services (DHS) associated with the administration of the Fund and Projects financed by it, provided that such costs be paid from a separate, dedicated and identifiable administrative account into which not more than four percent (4%), or such greater amount as may be permitted under federal law as part of the Act, of each federal capitalization grant allotment, and other amounts, shall be deposited; and
 - III. To pay costs required, authorized or funded under the Act with regard to the treatment of drinking water or to pay costs authorized or funded by other federal laws or programs that provide money for deposit to the Fund for the purposes of 30A MRSA Section 6006-B.
2. Prioritization of Projects to receive financial assistance from the Fund.
 - a. General. Periodically, and at least annually, DHS will prepare and certify to the Bank a project priority list of those public water system projects eligible for financial assistance from the Fund. For the purposes of these rules a public water system is defined in 22 MRSA Section 2601, subsection 8.
 - b. Priority factors. The factors to be considered in developing the priority list shall include, but not be limited to:

- I. Does the project address serious risk to human health;
 - II. Is the project necessary to ensure compliance with the Safe Drinking Water Act;
 - III. Is the project to assist public water systems in need on a per household basis according to State affordability criteria; and
 - IV. Does the project meet the above listed factors used in developing the priority list and is the public water system prepared to proceed with the proposed activity.
3. Certification of eligibility for financial assistance. No financial assistance for a project may be granted under this section until DHS has certified to the Bank that the project is eligible for immediate financing under 30A MRSA Section 5953-B and is on the priority list identified in Section 2 of these rules.
 4. Environmental Review for Non-equivalency Projects. An applicant requesting assistance for a non-equivalency projects (as defined in the Environmental Protection Agency Drinking Water State Revolving Fund Program Guidelines) shall certify that the Project complies with all local and State reviews and permit requirements for construction of the Project. The applicant shall submit copies of all permits or other documents obtained from local, State and federal agencies for the Project. The applicant shall also submit an evaluation of the alternatives considered prior to choosing the Project, a description of the positive and negative impacts of the Project on the environment and a description of the future of the area's environment without the Project. DHS will review the applicant's submittal to determine whether or not the Project is consistent with applicable State, local and federal environmental regulations. After determining that the Project is consistent with the applicable environmental regulations DHS will issue a Determination of Environmental Compliance for the non-equivalency Project. Notice of the determination shall be published by the applicant in a newspaper of general circulation in the area to be served. Concurrently, DHS shall make the documentation submitted by the applicant available to the public and shall distribute the notice of the determination to all known interested parties. In the event the Project is not consistent with the applicable environmental regulations financial assistance will not be given.
 5. Federal Cross-cutter Authorities shall be met by equivalency projects (as defined in the Environmental Protection Agency Drinking Water State Revolving Fund Guidelines). Applicants shall be responsible for ensuring that all federal and State agencies with responsibility for administration of federal cross-cutting authorities review the Project for consistency with those authorities.

6. Environmental Review for Equivalency Projects.

- a. General. As required by the provisions of the Act, DHS will conduct an interdisciplinary environmental review of equivalency projects proposed for funding through the Fund. This NEPA (National Environmental Protection Act) - like review will ensure that the Project will comply with the applicable local, State and federal laws, relating to the protection, restoration and enhancement of the environment. The review will include provisions for public participation and consideration of the immediate and long-term individual and cumulative effects of the Project. Based upon DHS staff (the Staff) review and consideration of public comments, including local, State and federal agency comments, DHS will make a formal determination regarding the potential social and environmental impacts of the proposed Project. If necessary, the determinations of DHS will include mitigative provisions as a condition to the provision of financial assistance for construction. No financial assistance will be provided until a final environmental determination has been made by DHS, or a previous determination made by DHS has been accepted (see subsection (d) (I) of this section). DHS may concur with an environmental determination that is based on a NEPA or NEPA-like review issued by another State or federal agency.
- b. Early review and coordination. During the planning stage for a Project potential applicants to the Fund should obtain guidance from the Staff regarding the scope of the environmental review to be conducted. This will allow for early involvement and consultation with multiple funding and review agencies. Early identification of the agencies with potential environmental issues of concern will allow for concurrent rather than consecutive reviews of the Project and allow the focus of study and review to concentrate on those issues. Early identification of areas of concern will minimize delays due to incorporating measures to eliminate or mitigate the concern. Early coordination will also allow the involved agencies to coordinate public notice and hearing requirements when practicable. Environmental documentation may be generated simultaneously with preliminary engineering reports and/or other planning documents allowing for integrated circulation and review of the documents.
- c. Basic environmental determinations. There are three basic environmental determinations that will apply to Projects proposed to be implemented with assistance from the Fund. They are: (1) a determination to categorically exclude (CE) a Project from a formal environmental review, (2) a finding of no significant impact (FNSI) based upon a formal environmental review supported by an environmental information document (EID) and, (3) a determination to require the preparation of an environmental impact statement (EIS), after which a determination to provide or not to provide financial assistance will be included in the EIS record of decision (ROD).

I. For the purposes of making an environmental determination, no significant environmental impact means:

- AA. State ambient air quality standards and State emissions standards are met;
- BB. The State classification of nearby, or adjacent, surface water bodies is not affected;
- CC. Ground water quality for the area is not degraded, nor are off-site wells or other protected natural resources at risk due to taking of water from the ground water source;
- DD. The preservation of any site recognized as historic on the National Register of Historic Places and/or the Maine Historic Resource Inventory is not affected;
- EE. Threatened or endangered species, and/or their habitats, are not affected;
- FF. Environmentally sensitive areas such as, but not limited to, wetlands, fragile mountain areas, floodplains, coastal zones, coastal dunes, coastal barrier islands, wild and scenic rivers, and important farmlands, identified by State and Federal environmental authorities, are not affected;
- GG. Local noise levels are not changed; and
- HH. Other parameters which may be designated by DHS, as required.

When evaluating the above parameters, the criteria and considerations established in Chapter 375 Site Location of Development Regulations of the State of Maine Department of Environmental Protection will be utilized. Guidance for application and definition of terms used in evaluation of social and natural environmental impacts will be taken from the Council on Environmental Quality (CEQ) regulations, guidance and “Question and Answer” documents.

II. The categorical exclusion (CE) determination applies to categories of Projects that have been shown over time not to entail significant impacts on the quality of the environment:

- AA. A Project that 1) is expected to have no significant environmental impact, 2) is located such that the Project or the required construction work for the Project will not be in or affect nearby environmentally sensitive areas or resources, and 3) meets any one

of the following criteria, as determined by DHS, may be categorically excluded from formal environmental review requirements:

- i. The Project is directed solely toward the rehabilitation, minor upgrading and/or minor expansion of existing facilities, toward functional replacement of equipment, toward the construction of related facilities adjoining existing facilities, or toward construction of small structures on existing sites;
- ii. The Project is to replace existing water mains with new mains in the same general location; or
- iii. The Project is to replace existing water storage facilities with new storage facilities in the same general location; or
- iv. The Project is to construct distribution or transmission mains in existing developed rights-of-way; or
- v. The Project is the purchase of land or easements integral to the implementation of a source water protection plan where no land-use changes are anticipated to occur.

BB. CEs will not be granted for Projects that entail:

- i. A new surface water intake or relocation of an existing surface water intake or a new discharge;
- ii. The provision of capacity for a population 30 percent or greater than the existing population within a 10 year period;
- iii. Known or expected impacts to cultural resources, to threatened or endangered species, or to other environmentally sensitive areas, as defined by local, State or federal law; or
- iv. The construction of facilities that are known or expected not to be cost-effective or are likely to cause significant public controversy.

CC. DHS may issue a CE for other categories of Projects for which there is sufficient documentation demonstrating that the Project is not likely to have significant effects on the quality of the environment.

DD. DHS shall revoke a CE and require the applicant to prepare and submit an EID if 1) the Project is altered and no longer meets the requirements for a CE or, 2) new evidence shows that serious environmental issues exist or, 3) a local, State, or federal law is being or may be violated.

III. Applicants whose Projects do not meet the criteria for a CE will be required to prepare an Environmental Information Document (EID). DHS Staff will review the EID and prepare an environmental assessment (EA) resulting in the issuance of either a FNSI or a public notice that preparation of an EIS by the applicant will be required. DHS's issuance of a FNSI will be based upon the EA which shall document that the potential environmental impacts will not be significant or that they will be mitigated without extraordinary measures.

IV. The ROD may only be based upon an EIS that is prepared in conformance with CEQ regulations (CFR 40 Part 1502.10). An EIS will be required when DHS determines through preparation of the EA that any one of the following conditions exist:

AA. The Project will significantly affect the pattern and type of land use or growth and distribution of the population;

BB. The effects of the construction or operation of the project will conflict with local or State laws or rules;

CC. The Project may have significant adverse impacts upon any one of the following:

i. Wetlands;

ii. Floodplains;

iii. Threatened and endangered species or their habitats; or

iv. Cultural resources including parklands, preserves, and other public land or areas of recognized scenic, recreational, agricultural, archeological or historic value.

DD. The Project may displace population or significantly alter the characteristics of existing residential areas;

EE. The Project may directly or indirectly (e.g., through induced development) have significant adverse effect, as defined by CEQ Regulations, upon local ambient air quality, local noise levels,

surface and ground water quantity or quality, fish, shellfish, wildlife or their natural habitats; or

FF. The Project may generate significant public controversy.

d. Other determinations that DHS is required to make.

I. If funding application is made five or more years after an environmental determination has been issued, or a Project has been altered, DHS will examine the plans and specifications, and related documents, for consistency with the environmental determination. If significant changes are found, DHS may revoke a CE and require the preparation of an EID and, if appropriate an EIS, or require the preparation of amendments to an EID or, if appropriate, supplements to an EIS. Based upon Staff review of the amended Project and EID, DHS will:

AA. Reaffirm the original environmental determination through the issuance of a public notice or statement of finding;

BB. Issue a FNSI for a Project for which a CE has been revoked, or issue a public notice that the preparation of an EIS will be required;

CC. Issue an amendment to a FNSI, or revoke a FNSI and issue a public notice that the preparation of an EIS will be required; or

DD. Issue a supplement to a ROD, or revoke a ROD that included funding and issue a public notice that financial assistance will not be provided.

e. Other determinations that DHS may make.

I. An applicant may request advance authority to construct part of the proposed Project prior to completion of the necessary environmental review when the part of the Project to be constructed:

AA. Immediately remedies a severe public health, water quality or environmental problem;

BB. Does not preclude any reasonable alternatives identified for the complete system;

CC. Does not cause significant direct or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire Project; and

- DD. Is not highly controversial.
 - II. Based upon the review of the information required by subsection (f) of this section, if DHS finds that the portion of the Project to be constructed meets the requirements of subsection (e)(I) above, DHS will issue a FNSI so conditioned as to prohibit construction of the remainder of the Project until a complete environmental review of the entire Project has been performed and an environmental determination issued.
- f. Environmental information required by DHS. A minimum of two copies of all information required in this subsection shall be submitted to DHS. Information regarding environmentally sensitive areas and important natural resources referred to in these rules is available through various agencies of the State and federal government.
- I. Applicants seeking a CE will provide DHS with sufficient documentation to demonstrate compliance with the criteria of subsection (c)(II) of this section. At a minimum, this documentation will consist of:
 - AA. A brief, complete description of the proposed Project and its costs;
 - BB. A statement indicating that the Project is cost-effective and that the applicant is financially capable of constructing, operating and maintaining the facilities; and
 - CC. A plan map, or maps, of the proposed Project showing:
 - i. The location of all construction areas,
 - ii. The water service area boundaries, and
 - iii. Any known environmentally sensitive areas, such as, but not limited to, cultural resource sites, endangered or threatened species critical habitats and environmentally important natural resource areas such as, but not limited to, 100-year floodplain boundary, wetlands, important farmlands, coastal zones or wild and scenic rivers, and fragile mountain areas.
 - DD. Copies of all permits obtained by the applicant from local, State and federal agencies for the Project.
 - II. An EID must be submitted by those applicants whose proposed Projects do not meet the criteria for a CE.

- AA. In addition to such other information as DHS may require, the contents of an EID will include:
- i. A description of the Project including population to be served, if appropriate. Population projections will be consistent with studies available from the Regional Planning Commission for the area to be served by the Project;
 - ii. The environmental setting of the Project and the future of the environment without the Project;
 - iii. The alternatives to the Project including an evaluation of direct and indirect impacts, cost effective analysis and socioeconomic effect of each alternative;
 - iv. The potential environmental impacts of the Project, including those which cannot be avoided;
 - v. A discussion of the whole range of relevant impacts including measures to mitigate adverse impacts, and commitments of resources to the Project. This would include any specific requirements of grant conditions or drinking water system long-term plans. Such requirements should be identified and referenced;
 - vi. A description of public participation activities conducted, issues raised, and changes to the Project which have been or may be made as a result of the public participation process;
 - vii. Documentation of coordination with appropriate governmental and regulatory agencies; and
 - viii. A plan map or maps as defined in subsection (f)(I)(CC) of this section.
- BB. The EID shall be made available for public review and comment for 30 days. The applicant shall advertise the availability of the EID in a newspaper of general circulation in the area to be served. Concurrent with the advertisement, a notice of availability of the EID will be sent to all local, State and federal agencies and to public and private parties who have expressed an interest in the proposed Project. Both the advertisement and the notice shall include the deadline for submitting comments and for requesting a

public hearing. Addresses where copies of the EID can be obtained and where comments will be taken shall also be included.

CC. A public hearing on the EID will be held when the Project is expected to have an effect on the environment, or when five (5) or more persons request a hearing in writing. The applicant shall provide DHS with a record of the hearing which shall include, a list of people in attendance, identities of commenters and the comments they made, copies of written testimony and the applicant's responses to the comments made. The record of the hearing and the EID shall be submitted to DHS no later than thirty (30) days after the hearing. Advertisement and notice of the hearing shall be made no less than seventeen (17) days prior to the hearing. In the event the hearing date falls after a previously set comment deadline, comments shall be taken for five (5) days after the hearing. Notice of the public hearing shall be advertised in a newspaper of general circulation in the area to be served and sent to all local, State, and federal agencies and to public and private parties that have expressed an interest in the proposed Project. The applicant may request and DHS may allow for the hearing to be held in conjunction with another hearing required for the Project.

III. The format of an EIS will allow for sound analysis by making a clear presentation of all alternatives, including the no action alternative, the proposed alternative, and all rejected alternatives. Both positive and negative environmental, economic and social impacts will be presented for each of the alternatives. Justification for choosing the proposed alternative and rejecting the others will be included. The procedure for developing the EIS is given in subsection (g) of this section.

- g. Procedures for Developing the EIS.
 - I. Upon making the determination that an EIS will be required of a proposed Project, DHS will publish and distribute a notice of intent to have an EIS prepared.
 - II. The EIS shall be prepared consistent with the CEQ regulations (40 CFR Part 1502.10).
 - III. The environmental determination will be in the form of a ROD stating one of the following:
 - AA. Financial assistance is given to the proposed Project;
 - BB. The proposed Project is modified to reduce adverse environmental impacts prior to financial assistance being given, or financial assistance is provided with conditions that mitigative measures be implemented; or
 - CC. Financial assistance is not provided for the proposed Project.
- h. Public Notice Requirements after an environmental determination has been made. After DHS has issued an environmental determination the applicant shall give public notice as follows:
 - I. For Projects receiving a CE determination:
 - AA. Applicants shall publish a notice indicating the determination in a local newspaper of community-wide circulation stating that supporting documentation is available for public inspection.
 - BB. Concurrently, DHS shall make the documentation available to the public and shall distribute the notice of the determination to all known interested parties.
 - II. For Projects receiving a FNSI determination:
 - AA. DHS shall allow for public review for at least thirty (30) days prior to the FNSI taking effect by:
 - i. Assisting the applicant with publication of a notice of the determination and a statement of the availability of the supporting EA in a newspaper of general circulation in the area to be served.
 - ii. Making the EA available to the public.

- iii. Distributing the FNSI and EA to all known interested parties.
 - III. For Projects receiving a ROD after preparation of an EIS:
 - AA. DHS shall distribute the ROD to all parties who commented on the Draft or Final EIS.
- i. DHS shall Monitor and Enforce compliance with grant conditions.
 - I. The Project will be monitored by DHS to ensure that any mitigating measures identified in the FNSI or ROD are being met.
 - II. If the applicant/recipient fails to comply with grant conditions any of the following enforcement sanctions may be imposed:
 - AA. Temporarily withhold cash payments pending correction of the deficiency;
 - BB. Deny funding of all or part of the cost of the action not in compliance;
 - CC. Wholly or partly suspend or terminate funding of the Project;
 - DD. Withhold further funding for the Project;
 - EE. Take other measures that may be legally available.
- 7. Constitutionality Clause. Should any section, paragraph, sentence, clause, or phrase of these rules be declared unconstitutional or invalid for any reason, the remainder of the rules shall not be affected thereby.
- 8. Advisory Rulings and Adjudicatory Proceedings. Nothing in these rules shall prohibit any public, private or governmental party from seeking administrative or legal relief from the determination of DHS. Requests for advisory rulings and adjudicatory proceedings shall be made to DHS as provided in the State of Maine Rules Relating to Drinking Water, 10-144E CMR 231, Section 1-B.

STATUTORY AUTHORITY: 30A M.R.S.A. Section 5959

EFFECTIVE DATE: October 22, 1997 (EMERGENCY - expires January 20, 1998)

NON-SUBSTANTIVE CORRECTION: November 10, 1997 - corrected expiration date.

EFFECTIVE DATE: January 28, 1998

Appendix H: Environmental Cross-Cutters

The following is a list of Environmental Cross-Cutting Agencies

Act or Law	Contact Information	Submittal description, Assistance sites.
<ul style="list-style-type: none"> National Historic Preservation Act Archeological and Historic Preservation Act 1974, Public Law 86-523 as amended Protection and Enhancement of the Cultural Environment (Executive Order 11593) 	Kirk F. Mohny, SHPO and Director Maine Historic Preservation Commission 65 State House Station Augusta, Maine 04333-0065 Phone 207-287-3811 kirk.mohny@maine.gov	Site location map, photos, known sites. http://www.maine.gov/mhpc https://www.maine.gov/mhpc/programs/project-review
<ul style="list-style-type: none"> National Flood Insurance Act Flood Disaster Protection Act National Flood Insurance Reform Act Executive Order 11988: Floodplain Management 	Sue Baker, CFM, Program Coordinator Maine Floodplain Management Program Dept. of Agriculture, Conservation & Forestry 93 State House Station Augusta, ME 04333-0093 Phone 207- 287-8063 Sue.baker@maine.gov	Activity located on floodplain map Activity located on site location map Description of any activity in floodplain https://msc.fema.gov/portal/home https://www.maine.gov/dacf/flood/interagencyreview.shtml
<ul style="list-style-type: none"> Sole Source Aquifers (Islesboro, Matinicus, Monhegan, North Haven, and Vinalhaven Islands have SSAs) 	John Hopeck, Senior Geologist Bureau of Land & Water Quality Dept. of Environmental Protection 17 State House Station Augusta, Maine 04333-0017 Phone 207-215-4463 John.T.Hopeck@maine.gov	
<ul style="list-style-type: none"> Coastal Barriers Resources Act. <i>Ocean beach and dune/coastal barrier areas.</i> 	Peter A. Slovinsky, Marine Geologist Maine Geological Survey Dept. Agriculture, Conservation, and Forestry 22 State House Station Augusta, ME 04333-0093 Phone 287-7173	Contact with MGS is required for projects in some coastal towns. https://www.maine.gov/dacf/mgs/explore/marine/facts/barrier.htm

	Peter.A.Slovinsky@maine.gov	
<ul style="list-style-type: none"> • Coastal Zone Management Act. • Coastal Zone Consistency 	<p>Erin Wilson, Federal Consistency Coordinator Maine Coastal Program Dept. of Marine Resources 21 State House Station Augusta, Maine 04333-0093 Phone 207-707-2324 Erin.Wilson@maine.gov</p>	https://www.maine.gov/dmr/mcp/federal-consistency-review/index.htm
<ul style="list-style-type: none"> • Endangered Species Act <i>Consultation with NOAA Fisheries is required when any project or action might affect an ESA-listed marine species or designated critical marine habitat.</i> 	<p>Mark Murray-Brown, ESA Section 7 Coordinator Greater Atlantic Regional Fisheries Office NOAA Fisheries Phone 978-281-9306 Mark.Murray-Brown@noaa.gov</p>	https://www.fisheries.noaa.gov/topic/consultations#endangered-species-act-consultations
<ul style="list-style-type: none"> • Safe Drinking Water Act 	<p>McKenzie Parker, DWSRF Program Manager Maine Drinking Water Program Dept. of Health and Human Services 11 State House Station Augusta, Maine 04333-0011 Phone 207-557-2255 McKenzie.Parker@maine.gov</p>	<p>Coordination on the SDWA will be provided during the DWSRF environmental review process. Do not contact as a cross cutter for DWSRF projects.</p> <p>https://www.maine.gov/dhhs/mecdc/environmental-health/dwp/pws/rulesPolicies.shtml</p>
<ul style="list-style-type: none"> • Maine Endangered Species Act • Natural Resources Protection Act 	<p>John Perry, Environmental Review Coordinator Dept. of Inland Fisheries & Wildlife 41 State House Station Augusta, ME 04333 Phone 207-287-5254 John.Perry@maine.gov IFWEnvironmentalreview@maine.gov</p>	https://www.maine.gov/ifw/fish-wildlife/wildlife/environmental-review/process.html
<ul style="list-style-type: none"> • Endangered Species Act • Bald and Golden Eagle Protection Act 	<p>Shay White U.S. Fish and Wildlife Service</p>	<p>See DWSRF Project Guide Appendix J</p>

<ul style="list-style-type: none"> • Migratory Bird Treaty Act 	<p>U S Dept. of Interior PO Box A East Orland, ME 04431 Phone 207-902-1568 Shay_White@fws.gov</p> <p>Wende Mahaney (Federal Projects & Permits, Atlantic Salmon ESA Consultation) Phone 207-902-1569 Wende_Mahaney@fws.gov</p> <p>Anna Harris, Project Leader Phone 207-902-1567 Anna_Harris@fws.gov</p>	<p>http://www.fws.gov/mainefieldoffice/Project%20reviews.html</p> <p>IPAC: https://ecos.fws.gov/ipac/user/login</p> <p>Bald Eagle Nest Location: https://fws.maps.arcgis.com/apps/webappviewer/index.html?id=796b7baa18de43b49f911fe82dc4a0f1</p>
<ul style="list-style-type: none"> • Submerged Lands Program <i>Actions in tidal rivers, Great Ponds, international boundary rivers (St. Croix, St. John, St. Francis), and coastal regions (including islands) including dredging, filling, or placement of permanent structures.</i> 	<p>Karen L. Foust, Planning & Research Bureau of Parks and Public Lands Dept. of Agriculture, Conservation and Forestry 22 State House Station Augusta, ME 04333-0022 Phone 207-287-6128 Karen.L.Foust@maine.gov</p>	<p>https://www.maine.gov/dacf/parks/about/submerged_lands.shtml</p>
<ul style="list-style-type: none"> • Wild and Scenic Rivers Act. <i>Only applies to work in the vicinity of the Allagash Wilderness Waterway</i> 	<p>Ron Hunt, Acting Director of Operations Bureau of Parks and Public Lands Dept. of Agriculture, Conservation and Forestry 22 State House Station Augusta, Maine 04333-0022 Phone 287-4717 Ron.Hunt@maine.gov</p>	
<ul style="list-style-type: none"> • Clean Air Act • USEPA Implementing Regulations • Protection and Improvement of Air Law 	<p>Eric Kennedy, Licensing and Compliance Bureau of Air Quality Dept. of Environmental Protection 17 State House Station</p>	<p>https://www.maine.gov/dep/air/</p>

	Augusta, ME 04333-0017 Phone 207-287-5412 Eric.kennedy@maine.gov	
<ul style="list-style-type: none"> • Rivers and Harbors Act (Section 10) • Clean Water Act (Section 404) <i>Dredging, filling, discharging or constructing in navigable waters, wetland, or waterways.</i> • Maine General Permit 	U.S. Army Corp of Engineers 442 Civic Center Drive, Suite 350 Augusta, ME 04330 Phone 623-8367 cenae-r-me@usace.army.mil	https://www.nae.usace.army.mil/Missions/Regulatory/ General Permit: https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Maine-General-Permit/
<ul style="list-style-type: none"> • Farmland Protection Policy Act 	Michelle Webb, Farm Viability and Farmland Protection Specialist Division of Agricultural Resource Development Dept. of Agriculture, Conservation and Forestry 28 State House Station Augusta, ME 04333-0028 Phone 207-287-2400 Michelle.T.Webb@maine.gov	https://www.maine.gov/dacf/ard/farmland_protection/index.shtml
<ul style="list-style-type: none"> • Natural Resources Protection Act 	Lisa St. Hilaire, Information Manager Maine Natural Areas Program Dept. of Agriculture, Conservation and Forestry 177 State House Station Augusta, ME 04333-0093 Phone 207-287-8044 Lisa.St.Hilaire@maine.gov	https://www.maine.gov/dacf/mnap/assistance/review.htm
<ul style="list-style-type: none"> • Solid Waste Disposal Act • Resource Conservation and Recovery Act 	Division of Solid Waste Management Dept. of Environmental Protection 17 State House Station Augusta, ME 04333-0017 Phone 287-6115	

<ul style="list-style-type: none"> • Site Location Law. <i>Projects in excess of 20 acres or structures covering more than 3 acres.</i> • Natural Resource Protection Act. • Executive Order 11990 (wetlands). <p><i>Dredging, filing, construction in, on, over, adjacent to, dune system, river pond, stream, brook, coastal and freshwater wetlands.</i></p> <ul style="list-style-type: none"> • Storm Water Management Law 	<p>Mark Stebbins, Land Div. Director Division of Land Resource Regulation Dept. of Environmental Protection 11 State House Station Augusta, Maine 04333-0017 Phone 207-592-4810 mark.n.stebbins@maine.gov</p>	<p>https://www.maine.gov/dep/land/sitelaw/index.html https://www.maine.gov/dep/land/nrpa/index.html https://www.maine.gov/dep/land/stormwater/storm.html</p>
<ul style="list-style-type: none"> • Protection and Improvement of Waters Law <p><i>All overboard wastewater discharges from municipalities and industries.</i></p>	<p>Gregg Wood Bureau of Water Quality Dept. of Environmental Protection 17 State House Station Augusta, ME 04333-0017 Phone 207-287-7693 Gregg.Wood@maine.gov</p>	<p>https://www.maine.gov/dep/water/laws/index.html</p>
<ul style="list-style-type: none"> • Subsurface Wastewater Disposal Rules • Minimum Lot Size Rules • Seasonal Conversion Rules • Rules for Site Evaluators • Private Cemetery Regulations 	<p>Alex Pugh, Sr. Environmental Hydrogeologist Division of Environmental Health Dept. of Health and Human Services 11 State House Station Augusta, ME 04333-0011 Phone 207-592-2086 Alex.L.Pugh@maine.gov</p>	
<ul style="list-style-type: none"> • Tribal-State Collaboration Act • Native American Graves Protection and Repatriation Act 	<p>Allison Binney, Interim Tribal Liaison Penobscot Nation abinney@akingump.com</p> <p>William Nicholas, Chief Passamaquoddy Tribe at Indian Township Chief.wnicholas@gmail.com</p>	<p>https://digitalcommons.colby.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1016&context=atlas_docs</p>

	<p>Corey Hinton, Interim Tribal Liaison Passamaquoddy Tribe at Pleasant Point mchinton@dwmlaw.com</p> <p>Zeke Crofton-MacDonald, Ambassador Houlton Band of Maliseet Indians ambassador@maliseets.com</p> <p>Corey Hinton, Interim Tribal Liaison Mi'kmaq Nation mchinton@dwmlaw.com</p>	
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Appendix I: DWSRF Contract Requirements

DWSRF Contract Requirements are described in detail in the DWSRF Supplemental General Conditions (DWP0151) which are located on the DWP website at www.medwp.com:

Appendix J: US Fish and Wildlife Service Endangered Species Act (ESA) Review



United States Department of the Interior

FISH AND WILDLIFE SERVICE



Ecological Services
Maine Field Office
P.O. Box A
306 Hatchery Road
East Orland, Maine 04431
207/469-7300 Fax: 207/902-1588

Guidance for Applicants for Clean Water and Drinking Water State Revolving Fund Programs to Comply with the Federal Endangered Species Act

The Environmental Protection Agency (EPA) provides Federal funds to the Maine Department of Environmental Protection (DEP) and the Maine Department of Health and Human Service (DHHS) to implement the Clean Water and Drinking Water State Revolving Fund (SRF) Programs, respectively. These programs fund projects that must comply with State and Federal environmental regulations including compliance with the Federal Endangered Species Act (ESA).¹

EPA has delegated certain responsibilities under the Endangered Species Act to the State SRF Programs. In accordance with EPA's Cross-Cutting Authority Handbook, SRF assistance recipients and SRF agencies both have a responsibility to comply with the ESA. This guidance provides the general principles and framework for recipients of Maine Clean Water and Drinking Water SRF Program funds on how to comply with the ESA.

The U. S. Fish and Wildlife Service (Service) is the principal Federal partner responsible for administering the ESA, and the Service takes the lead in recovering and conserving our Nation's imperiled species. The ESA directs all Federal agencies to use their existing authorities to conserve threatened and endangered species and, in consultation with the Service, to ensure that their actions do not jeopardize listed species or destroy or adversely modify critical habitat. The Service's Maine Field Office Web site maintains a list of federally endangered and threatened species and designated critical habitats that occur in Maine.²

¹ Cross-cutting Federal authorities are the requirements of Federal laws and Executive Orders that apply to Federal financial assistance programs. More detailed guidance from the EPA on compliance with Federal laws and regulations can be found in the document "Cross-cutting Federal Authorities: A Handbook on Their Application in the Clean Water and Drinking Water State Revolving Fund Programs," October 2003. This can be consulted at <https://www.epa.gov/sites/production/files/2015-08/documents/crosscutterhandbook.pdf>; accessed April 2018.

² The list of species in Maine can be found at https://www.fws.gov/mainefieldoffice/Endangered_and_Threatened_Species.html; accessed April 2018.

Please complete the following steps and submit the information generated along with your Environmental Review Submission (ERS) form to the appropriate Maine State Revolving Fund Agency so they can meet their obligations to comply with the ESA.

To complete the steps below, go to the Web site of the Maine Field Office, U. S. Fish and Wildlife Service, Species List and Project Reviews page at:

<https://www.fws.gov/mainefieldoffice/Project%20reviews.html>; accessed April, 2018.

Please note: The loan applicant/recipient should also check with the National Marine Fisheries Service for other ESA listed species not under the jurisdiction of the U. S. Fish and Wildlife Service. Go to the Web site: <https://www.fisheries.noaa.gov/contact-directory/endangered-species-act-consultations>; accessed April, 2018.

Step 1: The first step is to develop a map of your project action area (see the Maine Field Office Web site for guidance on defining the action area). You will need this map in the next step.

Step 2. The Maine Field Office Web site will direct you to the Service's Information for Planning and Consultation system (IPaC).³ You will need to create a user name and password to access the Web site. You will begin the process by mapping your project action area. IPaC will use the map to generate a list of federally listed species and critical habitats that may occur in your project area. Follow the instructions in IPaC through to completion to obtain an **official species list**, a letter from the Service's Maine Field Office that provides an official list of species and critical habitats. After obtaining the official species list, you can begin to fill out a species summary table for the species that may be present in your project area.

Step 3: This step is to determine if federally endangered and threatened (listed) or proposed species and their critical habitats on your official IPaC species list are likely to occur in your action area. Are the species likely to be present or is there suitable habitat for the listed species in your project action area?

All project official species lists will contain at least one species that may occur in your action area, the northern long-eared bat. This threatened species could possibly occur anywhere in Maine where there is forested habitat. Consultation for this species is a special case, which is described at the following Service Web site:

<https://www.fws.gov/Midwest/endangered/mammals/nleb/s7.html>; accessed April,

2018. If your project involves cutting trees three inches or greater in diameter in appropriate bat habitat or may otherwise affect northern long-eared bats, then you must use the online Determination Key accessed through IPaC. On Step 2: Evaluate Determination Keys, select the determination key for Northern Long-Eared Bat Consultation and complete the questionnaire. Once completed, a Consistency Letter for Northern Long-Eared Bats will be generated based upon your responses.

Include a copy of the Consistency Letter with your ER submittal to be sent to the appropriate Maine SRF Agency

³ The Web site address for IPaC is: <https://ecos.fws.gov/ipac/>; accessed April 2018.

Fact sheets on each of Maine's threatened and endangered species are available at the Maine Field Office Web site at:

https://www.fws.gov/mainefieldoffice/Endangered_and_Threatened_Species.html; accessed April, 2018. The information in the fact sheets will help you to determine whether the species on your official list are likely to occur and the habitats that they may use. In some instances, suitable habitat may be present and a survey may be needed to determine whether the species is actually present. If you are uncertain about whether you need to have a survey completed or need information on appropriate survey protocols, please contact the Maine Field Office (see contact information at the end of this document).

If you determine that there is no habitat for the species on your official list or you have information that they do not occur on or near your project action area write "suitable habitat not present" or "species not present" on your species summary table attached to this guidance.⁴

Step 4: This step helps you determine whether your project is likely to take or disturb bald eagles. Although bald eagles are no longer on the Federal endangered and threatened species list, they are protected by the Federal Bald and Golden Eagle Protection Act. More information on this Act and the Service's National Bald Eagle Management Guidelines can be found at the Web site:

<https://www.fws.gov/northeast/ecologicalservices/eaglenationalguide.html>; accessed April, 2018.

You can use the bald eagle nest locator map tool⁵ to determine if your project action area is within 660 feet of a known eagle nest. In the unlikely event that this occurs, you will need to determine whether your project may take or disturb bald eagles. For further information or assistance, please contact the Maine Field Office (see contact information at the end of this document).

Step 5: In this step you are required to make the appropriate determination(s) concerning the effects of your proposed project on the federally listed species or critical habitat that may occur on or near the action area of your project. You may reach different determinations for different listed species or critical habitats. These determinations are:

- 1) **The project has no effect on listed species or critical habitat.** This is the appropriate conclusion if you have determined the species or their habitats are not present or that you have otherwise determined your proposed project will not affect a listed species or critical habitat.
- 2) **The project may affect, but is not likely to adversely affect a listed species or critical habitat.** This is the appropriate conclusion if a federally listed species or critical habitat is present, but the effects are expected to be discountable (project effects are extremely

⁴ A similar, but not identical, table is available on the Service Web site. Instead, please use the attached form. A blank form and an example are attached to this guidance.

⁵ Visit the Web site at:

<https://fws.maps.arcgis.com/apps/webappviewer/index.html?id=796b7baa18de43b49f911fe82dc4a0f1>; accessed April, 2018.

unlikely to occur), insignificant (project has a very small impact that never rises to the level of take – killing, harassing, or harming a listed species), or completely beneficial (project is wholly beneficial to the species with no adverse effects).

- 3) **The project is likely to adversely affect a listed species or critical habitat.** This is the appropriate conclusion if any adverse effect to listed species may occur as a direct or indirect result of your project (and effects are not discountable or insignificant, see above). If incidental take of a listed species (kill, harm, harass, etc.) is likely to occur as a result of your project, then the project is likely to adversely affect a listed species. If key elements of critical habitat are to be affected, then an adverse effect may occur. Adverse effects can sometimes be avoided by project timing and implementing conservation measures. Measures to avoid adverse effects are recommended to avoid additional project review.
- 4) **The project may affect the northern long-eared bat** and is consistent with the streamlined consultation process described at the Web site:
<https://www.fws.gov/Midwest/Endangered/mammals/nleb/s7.html>; accessed April, 2018.

At this point, you have made a final determination of effects for each of the federally listed species and critical habitats that occur in your project action area. You will summarize this information on the “species summary table” attached to this guidance. A similar, but not identical, table is available on the Service Web site. Instead, please use the attached form. A blank form and an example are attached to this guidance.

Some Clean Water and Drinking Water State Revolving Fund Programs projects address upgrades to or other work within existing infrastructure (new pumps inside a building, building upgrades, etc.) and will not affect species or their habitats (unless bats could be present in the building). If you are sure minimal upgrades to existing infrastructure is all that will be done, you will conclude the Endangered Species Act process at this point and reach a determination of “no effect” to listed species on your project

Step 6: In this step you determine whether or not it is necessary to consult with USFWS concerning your determination.

- If you determine that there is “no effect” to all listed species or critical habitats, simply provide your SRF Project Manager with a copy of the official species list from IPaC, bald eagle map, and the completed species summary table. If your SRF Project Manager agrees with your findings, no further Endangered Species Act consultation is needed. The consultation is complete!
- If you determine that your project “may effect” Northern Long-Eared Bats, but no other species, in addition to the documentation listed above, you must also include a copy of the Verification Letter for Final 4(d) Rule for Northern Long-Eared Bats.
- If you determined your project is “not likely to adversely affect” one or more listed species or critical habitat, the Consultant who conducted the review must write a letter addressed to the

Service seeking concurrence on their determination. This is called informal consultation. A sample letter is attached to this guidance **This letter must not be sent directly to USFWS**, but rather must be provided to your SRF Project Manager, who will review your findings, and if they are in agreement, sign off on the determination and forward to USFWS with your other project materials, including: official species list from IPaC, bald eagle map, species summary table, and Verification Letter for Final 4(d) Rule for Northern Long-Eared Bats, if applicable. The Service will review the materials and if we agree with the determination of effects to listed species and their critical habitats, we will provide written concurrence to the appropriate State SRF agency. The consultation is then complete! If the Service does not agree with the effects determination, additional consultation will be necessary, which could result in modifications to the project such that the Service can provide concurrence.

- If you determined that your project is “likely to adversely affect” a listed species or its critical habitat, then the appropriate State SRF agency will notify EPA. The EPA will write a letter to the Service seeking formal consultation. This requires that a Biological Assessment be prepared that describes the project in detail, anticipated adverse effects to listed species, and measures taken to avoid, minimize, or mitigate anticipated adverse effects to listed species or critical habitat. The Service will write a Biological Opinion based on the information in the Biological Assessment that ensures the project will not jeopardize the recovery of the listed species or adversely modify the critical habitat and provides incidental take coverage for any take of listed species anticipated. The Biological Opinion may provide further measures to minimize adverse effects or take and provide conservation measures. The Biological Opinion concludes the consultation. Based on experience, we anticipate formal consultation to be rare for Clean Water and Drinking Water State Revolving Fund Programs.

If you need further assistance completing the consultation requirements of the Endangered Species Act, please contact the Maine DEP (CWSRF) John True at 207/287-7808, Maine DHHS (DWSRF) Nathan Saunders 207/287-5685, or Mark McCollough at 207/902-1570, or Wende Mahaney at 207/902-1569 at the Maine Field Office, U. S. Fish and Wildlife Service.

Species Summary Table

Your Name

Project Name used in IPaC:

IPaC Number:

Date:

Step 1 Listed species that are likely present according to the Official Species List from IPaC? Enter " No Species" or each species from IPaC Species List. Bald eagle nest(s) ID # from Step 4.	Step 2 Is your action area in critical habitat (only for Canada lynx or Atlantic salmon)? " Yes" " No"	Step 3A Is suitable habitat for listed species present in your action area? " Suitable habitat present" " Suitable habitat not present" " Don' t know"	Step 3B Does the species occur in your action area? " Species present" " Species not present" " Don' t know"	Step 4 Is your project likely to take or disturb eagles and require an Eagle Act permit? " Will not disturb" " May disturb" " Don' t know"	Step 5 Determinations for the Endangered Species Act – " No effect" " May effect (NLEB only)" " May effect, not likely to adversely affect" " Likely to	Notes and Documentation (provide additional information if needed)

Notes:

Species Summary Table

Your Name: Mary Doe
 Project Name used in IPaC: Sugarloaf Water Association Timbers Storage Tank
 IPaC Number: O5E1M00-2018-SLI-0489
 Date: 12/12/2018

Step 1 Listed species that are likely present according to the Official Species List from IPaC? Enter " No Species" or each species from IPaC Species List. Bald eagle nest(s) ID # from Step 4.	Step 2 Is your action area in critical habitat (only for Canada lynx or Atlantic salmon)? " Yes" " No" " N/A"	Step 3A Is suitable habitat for listed species present in your action area? " Suitable habitat present" " Suitable habitat not present" " Don' t know"	Step 3B Does the species occur in your action area? " Species present" " Species not present" " Don' t know"	Step 4 Is your project likely to take or disturb eagles and require an Eagle Act permit? " Will not disturb" " May disturb" " Don' t know" " N/A"	Step 5 Determinations for the Endangered Species Act – " No effect" " May effect (NLEB only)" " May effect, not likely to adversely affect" " Likely to	Notes and Documentation (provide additional information if needed)
Canada Lynx	No	Suitable habitat present	Don' t Know	N/A	May effect, not likely to adversely affect	Project involves clearing 0.5 acres of forested land
Northern Long Eared Bat	N/A	Suitable habitat present	Don' t Know	N/A	May effect	Project involves clearing 0.5 acres of forested land
Atlantic Salmon	No	Suitable habitat not present	Species Not Present	N/A	No effect	Project involves 3 stream crossing, but streams are not capable of supporting aquatic life.
Bald Eagle – Nest 302A	N/A	Suitable habitat present	Species Not Present	Will not disturb	No effect	Nearest nest is over 9-miles from the project site.

Notes: See Consultation Request letter for further detail.

SAMPLE LETTER REQUESTING INFORMAL CONSULTATION FROM USFWS

Wende Mahaney
Maine Field Office
US Fish and Wildlife Service
PO Box A
East Orland, ME 04431

December 12, 2018

RE: Request for Informal Consultation – Sugarloaf Water Association – Timbers Storage Tank
Consultation Code: 05E1ME00-2018-SLI-0489

Dear Ms. Mahaney:

I'm writing in regards to the environmental review for DWSRF Project 2017-52 - Sugarloaf Water Association - Timbers Storage Tank. Specifically, the project involves the construction of a 320,000-gal water storage tank and 1,300-ft of new transmission line, to be located off an existing clear-cut pipe easement between Reservoir Lane and Bucksaw Drive in Carrabasset Valley, ME. The project also includes some interior pipe work within existing structures and a small addition on an existing structure, expanding on to a currently paved surface.

The official species list obtained via IPaC indicated Canada Lynx, Northern Long Eared Bat, and Atlantic Salmon as threatened species potentially within the project area. There was no critical habitat. It is my finding that the project described above is not likely to adversely affect, or else have no effect, on these species.

Canada Lynx

This project involves clearing approx. 0.5 acres of forested land adjacent to an existing clear-cut access road between two condo developments at the base of busy ski mountain. The impacted area is discountable when compared to a Canada Lynx typical range (> 15-acres). This project is not likely to affect Canada Lynx.

Northern Long Eared Bats

This project involves clearing approx. 0.5 acres of forested land. The project site consists of a woods road and fringing forested upland, with portions of the area having been harvested for lumber in the past. Tree growth in the area is predominately White Spruce, Yellow Birch, Striped Maple, and Balsam-Poplar. Efforts will be made to have clearing completed before April 1st, however construction timing will depend heavily on winter duration and snowfall accumulations. All clearing would take place prior to July 31st. Per review of USFWS website, there does not appear to be any known hibernaculum or maternity roost trees in the project area. This project may affect Northern Long Eared Bats.

Atlantic Salmon

A wetlands survey of the construction area was conducted by Atlantic Environmental LLC in May 2018; the survey identified (3) jurisdictional streams which would need to be crossed by the transmission main. The project engineer describes the streams as intermittent drainage streams. One stream has an existing culvert that will be replaced; the two other streams do not currently have culverts, but culverts will be added as part of the project scope, allowing continuation of the natural stream flow downstream of the crossings. The streams are capable of supporting aquatic macro invertebrates during periods of flow, but cannot support fish life. Flows are highest during the spring melt and intermittent flow during the summer following rain events. Stream crossing work will take place in June following the majority of the spring melt. If they are unable to complete the crossings while streams are dry, they will utilize the dam and pump method. Best management practices will be used throughout the project to minimize construction impacts, including use of haybales and silt fences and wetland seed mix. This project is likely to have no effect on Atlantic Salmon.

Bald Eagles

The project also reviewed the potential for impact on Bald Eagles. Per the FWS Maine Bald Eagle Nest Location Map, the nearest known nest (302A) is approximately 9-miles north of the project site. This project is likely to have no effect on Bald Eagles.

Given the information presented above, I am writing to seek concurrence from FWS on my determination of effects or to obtain further mitigating measures required by the Service to ensure this project achieves compliance with Federal Endangered Species Act. If you need any additional information, you may contact me a 555-555-5555 or mary.doe@consultingengineerfirm.com.

Best Regards,

Mary Doe
Project Engineer
Consulting Engineer Firm

Enclosed: Environmental Information Document, Site Map, Site Photos, Official Species List, Species Summary Table, Verification Letter for Final 4(d) Rule for Northern Long-Eared Bat

.....
Based upon the information provided by the consultant, the contents of this Request for Informal Consultation have been reviewed and the determinations made concurred with by the Responsible Official of the Department of Health and Human Services – Drinking Water Program.

Signature of Responsible Official: _____

Printed Name: _____ Date: _____

Appendix K: Federal Flood Risk Management Standard



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

MEMORANDUM

SUBJECT: Re-Instatement of Federal Flood Risk Management Standard for State Revolving Fund Programs

FROM: Anita Maria Thompkins, Director, Drinking Water Protection Division
Office of Ground Water and Drinking Water

ANITA THOMPKINS
Digitally signed by ANITA THOMPKINS
Date: 2022.04.27 16:15:38 -04'00'

Raffael Stein, Director, Water Infrastructure Division
Office of Wastewater Management

RAFFAEL STEIN
Digitally signed by RAFFAEL STEIN
Date: 2022.04.28 10:17:01 -04'00'

TO: Water Division Directors
Regions I-X

Flooding is one of the most common hazards in the United States, accounting for roughly \$17 billion in damage annually between 2010 and 2018 according to the Federal Emergency Management Agency (FEMA), and it will continue to be an ongoing challenge for water infrastructure. Impacts can include physical damage to assets, soil and streambank erosion and contamination of water sources, loss of power and communication, loss of access to facilities, saltwater intrusion, and dangerous conditions for personnel.

On May 20, 2021, President Biden signed Executive Order (EO) 14030, *Climate-Related Financial Risk*, reinstating EO 13690, *Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input* (January 30, 2015). EO 13690 amends the original floodplain management standard established in 1977 by EO 11988, and was revoked by EO 13807 in August 2017, though is now reinstated. This action reestablishes the Federal Flood Risk Management Standard (FFRMS) for federally funded projects.

The FFRMS will increase the resilience of infrastructure for flooding events caused by climate disasters. The new standard will go into effect in fiscal year 2022 for State Revolving Fund (SRF) capitalization grants (including the Bipartisan infrastructure Law funding). The FFRMS applies to actions where federal funds are used for new construction, substantial improvement (i.e., projects worth more than 50% of the market value or replacement cost of the facility), or to address substantial damage to structures and facilities. Much of the groundwork for this new standard was completed by an SRF

state/EPA workgroup in 2015 and 2016 prior to EO 13690 being revoked in 2017 but was never implemented for the SRF programs. Details about the new FFRMS can be found in the updated Floodplain Management section of the SRF Crosscutter Handbook (excerpt attached).

If a potential SRF assistance recipient needs assistance with evaluating their water system or project with respect to this new standard, EPA has several tools and resources available, including several that would assist with utilizing the climate-informed science approach.

EPA's [Creating Resilient Water Utilities](#) (CRWU) initiative assists drinking water, wastewater, and storm water (water sector) utilities by promoting a clear understanding of climate change and helps to identify potential long-term adaptation options for decision-making related to implementation and infrastructure financing. Tools and resources under CRWU to assess and address climate change risk include:

- [Climate Resilience Evaluation and Awareness Tool \(CREAT\)](#) – A climate change risk assessment application that assists water sector utilities in considering climate impacts and identifying adaptation options to increase overall climate resilience. Incorporating CREAT results into best management practices and capital investment decisions builds customer and stakeholder confidence that a utility is being proactive in identifying significant climate-related risks.
- [Resilient Strategies Guide](#) – Introduction of water sector utilities to the climate change adaptation planning process. Users identify their planning priorities, vulnerable assets, potential adaptation strategies, and available funding sources.
- [Scenario Based Projection Map](#) – Provides scenarios of projected changes in annual total precipitation, intensity, annual average temperature, 100-year storm events, and sea-level rise as a result of climate change.
- [Storm Surge Inundation Map and Hurricane Strike Frequency Map](#) – Provides the worst-case storm and inundation scenarios on the American Gulf and Atlantic coasts, including Puerto Rico. The map also includes data on: FEMA flood zones; hurricane strikes; and real time coastal flood advisories.
- [Streamflow Map](#) – Provides projections of possible changes in flow conditions for the U.S. streams and rivers under a range of future environmental conditions.
- [Case Studies Map](#) – Provides more than 60 water sector utility case studies and information on how to address climate change impacts.

Other Agency resources include:

- [Flood Resilience: A Basic Guide for Water and Wastewater Utilities](#) – This guide helps utilities become more resilient to flooding by examining the threat of flooding, determining impacts to utility assets, and identifying cost-effective mitigation options.
- [Federal Funding for Utilities – Water/Wastewater – in National Disasters](#) – Fed FUNDS provides information on SRF as well as funding from FEMA, U.S. Department of Agriculture, U.S. Department of Housing and Urban Development, and Small Business Administration.

While this requirement only applies to federal funding, EPA encourages states to consider utilizing this standard not just for equivalency projects, but for all SRF funded projects to bolster communities' climate resilience.

For inquiries, please contact Kiri Anderer, DWSRF Senior Environmental Engineer at (202) 564-3134 or anderer.kirsten@epa.gov, or Franny Josephs, CWSRF Financial Analyst at (202) 564-9541 or josephs.frances@epa.gov.

Attachment

SRF Crosscutter Handbook, Floodplain Management section revision

Floodplain Management

Executive Order No. 11988 (1977), as amended by Executive Order No. 13690 (2015)

Federal policy designed to promote the prudent management of floodplains has been in effect since 1968, with the passage of the National Flood Insurance Act. Pub. L. No. 90-448, 42 U.S.C. § 4001 *et seq.* By providing federal subsidies for private flood insurance and by requiring flood-prone communities to have the insurance as a condition to receiving federal assistance, that law and the Flood Disaster Protection Act of 1973, Pub. L. No. 93-234, 87 Stat. 939 (1973), recognized the serious economic and environmental damage that can result from flooding in developed lowland areas.

Executive Order No. 11988, as amended by Executive Order No. 13690¹, regulates the actions of federal agencies that affect floodplains. This order requires all agencies undertaking, financing, or assisting proposed activities to determine whether they will occur in or affect a floodplain and to evaluate potential measures to avoid adversely affecting the floodplain. When determining whether or not an action is in a floodplain, agencies should draw on existing resources where possible. Federal Emergency Management Agency (FEMA) products, such as flood maps and Flood Insurance Studies (FIS), may serve as a good starting source. E.O. 13690 amended the term “floodplain” as used in the 1977 version of E.O. 11988 by establishing a Federal Flood Risk Management Standard (FFRMS) which describes three available approaches for determining the vertical flood elevation and corresponding horizontal floodplain for federally funded projects. These approaches are designed to recognize and incorporate future conditions rather than rely solely on existing data and information. One of these approaches must be used for determining the FFRMS floodplain for federal actions. The approaches currently described in the FFRMS are the following:

1. *Climate-informed Science Approach* – use best available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science and other factors or changes affecting flood risk to determine the vertical flood elevation and corresponding horizontal floodplain in a manner appropriate to policies, practices, criticality, and consequences.
2. *Freeboard Value Approach* – use the Base Flood Elevation (or 1-percent-annual-chance flood determined using best available data) and an additional height to calculate the freeboard value. The additional height (2’ non-critical or 3’ critical) will depend on whether or not the action is a critical action (i.e., any activity for which even a slight chance of flooding would be too great).
3. *The 0.2-percent-annual-chance Flood Approach* – use the 0.2-percent-annual-chance flood elevation (also known as the 500-year flood elevation).

¹ The Federal Flood Risk Management Standard and amendments found in E.O. 13690 include the following:

- Agencies, where possible, shall use natural systems, ecosystem processes, and nature-based approaches in the development of alternatives for all actions to which E.O. 11988 applies.
- Agencies are required to expand management from the base flood elevation to a higher vertical flood elevation and corresponding horizontal floodplain for federally funded projects.

Agencies must select, if they are available, viable alternative locations for their undertakings that will not affect floodplains. If construction or substantial improvements (i.e., projects worth more than 50% of the market value or replacement cost of the facility²) will be undertaken or supported in a floodplain because no practicable alternative locations are available, and the SRF agency has otherwise ensured compliance with the Executive Order, measures must be taken to minimize the risk of flood damage to or within the floodplain. Such measures could include flood proofing the facility to be constructed, elevating structures above base flood levels, providing compensatory flood storage, or any other means that allow structures and facilities to adapt to, withstand and rapidly recover from a flood event. In addition, public review is required for each plan or proposal for action taking place within a floodplain.

Implementation in the SRF Programs

In consultation with the state SRF agency and the appropriate state floodplain management office, the SRF assistance recipient must first determine whether the proposed project will be located in or affect a floodplain. SRF assistance recipients will be required to use higher standards for actions determined to be critical actions. Critical actions are defined as any activity for which even a slight chance of flooding would be too great.

If the proposed project will be located in or will affect a floodplain, the assistance recipient must prepare a floodplain assessment. If there are no practicable alternatives to the proposed site, the assistance recipient must document the mitigating measures or design modifications that will be taken to reduce the threats from locating the project in the floodplain. In conjunction with the public notice procedures in the SERP, the project area community must be informed why the proposed project is to be located in a floodplain.

The environmental information documentation describing mitigating and design measures must be submitted by the assistance recipient to the SRF agency, which prepares a preliminary finding on whether the assistance recipient has ensured compliance with Executive Order No. 11988, as amended by Executive Order No. 13690. Notice of this finding should be given to FEMA, which may provide recommendations for improving mitigation measures or further modifying the project's design to enhance flood protection.

Additional References

- 40 CFR Part 6 Appendix A: Statement of Procedures on Floodplain Management and Wetlands Protection.
- October 8, 2015: Water Resources Council's Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input. The Guidelines include a step-by-step decision making process.

² EPA has adopted the USDA Rural Development definition of "substantial improvement" as defined in "Environmental Policies and Procedures" 81 Fed. Reg. 41 (March 2, 2016)